

DISSENTERS' BAPTISMS

AND

CHURCH BURIALS.

STRICTURES UPON THE DECISION

OF THE LATE

SIR JOHN NICHOLL;

WITH

AN ATTEMPT AT AN INVESTIGATION OF THE
JUDGMENT OF THE CHURCH OF ENGLAND
UPON THE SUBJECT.

BY

THE REV. WALTER BLUNT, M.A.,

OF CONVILLE AND CAIUS COLLEGE, CAMBRIDGE.

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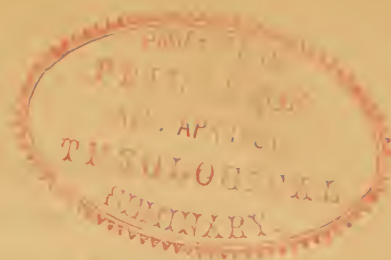
PARKER, OXFORD; AND STEVENSON, CAMBRIDGE.

M.DCCC.XL.

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TO
THE MOST REVEREND AND RIGHT REVEREND
THE
ARCHBISHOPS AND BISHOPS
OF THE
SEVERAL ANGLICAN BRANCHES
OF
CHRIST'S HOLY CATHOLIC CHURCH,
DISPERSED THROUGHOUT THE WORLD,
THE FOLLOWING PAGES ARE DEDICATED IN HUMILITY
AND PROFOUND RESPECT,

WITH EARNEST, CONTINUOUS, NEVER-CEASING PRAYER
THAT OUR LORD WILL SPEEDILY RESTORE UNTO HIS CHURCH
THE SPIRIT OF REVERENCE AND GODLY FEAR,
MANIFESTING ITSELF IN A READY AND DUTIFUL OBEDIENCE
TO HIS VICEGERENTS UPON EARTH:
AND THAT,
IN PARDONING MERCY,
HE WILL GRANT UNTO US, REPENTANT,
AN OUTPOURING OF HIS FAVOUR,
IN THE INCREASE OF THEIR NUMBER,
FOR THE EXERCISE OF EPISCOPAL FUNCTIONS;
AND THE REMOVAL OF DIFFICULTIES, THE RESOLUTION OF DOUBTS,
AND THE HEALING OF DISSENSIONS,
BY APOSTOLICAL DELIBERATION AND DETERMINATION,
UNDER THE GUIDANCE OF HIS SPIRIT,
OF THE BISHOPS, IN HOLY SYNOD ASSEMBLED.



P R E F A C E.

I AM not silly enough to suppose that the following pages contain all that can be written upon this now litigated question. I have searched far too deeply into this and other such-like important subjects not to be fully aware that I know *comparatively* but very little about them. Hence, I do not expect, that all persons should agree with me in the view which I have taken of it. All that I can hope to do is to show that there are *two sides* to the question, and to prove that those among the Clergy who object to Bury persons Baptized by Dissenters, are not necessarily “a set of ignorant, hot-headed, obstinate enthusiasts,” but have, to say the least, *some* reason, beside “prejudice,” for what they do. The following pages, I believe, contain amply sufficient testimony to show that the question demands a fresh and full examination; and if only I succeed in gaining for it a new

and patient investigation, I shall be fully satisfied with the little measure of good I may have thus effected, and shall most willingly leave the discussion of it to men of greater learning and ability. Most grateful should I have been to any more experienced and more able person to have taken out of my hands the task which I have now imperfectly performed, and very many have I urged to do so ; but finding that the majority of those with whom I conversed knew still less about it than I did—and finding also that those who knew more were unwilling, or too much occupied, to undertake it—and finding that there was a strong notion and feeling abroad that, because nothing *was* now written against the established practice, therefore nothing *could* be advanced against it—and withal, being anxious too, from personal reasons, to explain to many, who misunderstood my motives, the grounds on which I refused Burial to a Dissenter's Child, in a distant Diocese, several months ago,—urged on by these and such-like considerations, I have prevailed upon myself, very reluctantly, to send the following pages to the press, trusting that they will be received with lenity and candour, which I feel it

the more necessary to bespeak in their behalf, from the circumstance of my having been deprived of the benefit of consulting a most valuable Library*, at the very moment when its assistance was most desirable.

I will only add, that circumstances, which I need not mention, having induced me to commence the following treatise *in the first person*, I have, in preparing it for the press, considered it the more modest and becoming course to retain this somewhat unusual form throughout: for, though many agree with me in the conclusion arrived at, I fear that even there I am still in a minority, and I am not *sure* that I can lay claim to the approbation of any living person upon the line of reasoning through which that conclusion is attained.

* The British Museum.

EXETER,
Sept. 16, 1840.

DISSENTERS' BAPTISMS

AND

CHURCH BURIALS.

THE Judgment of the late Sir John Nicholl in the case of *Kemp v. Wickes*, delivered in the Arches Court of Canterbury, in the year 1809, pronounced that the defendant, who was a clergyman of the Church of England, had acted wrongly, in refusing to Bury the child of a parishioner, which child had been baptized by an Independent preacher*.

This decision has, for the last thirty years, guided almost universally the clergy of the English Church, with respect to the Burial of persons baptized by Dissenters. A variety of causes, no doubt, have operated in gaining for it this wide submission. The clergy, in yielding their obedience to it, have done so upon various grounds. Some of them

* The Judgment, delivered Dec. 11, 1809, by the Right Hon. Sir John Nicholl, Knight, L.L.D., Official Principal of the Arches Court of Canterbury, upon the admission of Articles exhibited in a cause of Office, promoted by *Kemp v. Wickes*, Clerk, &c., &c.—*Taken in short-hand by Mr. GURNEY. London, 1810.*

have regarded a Judge of the Arches Court of Canterbury as *competent*, in point of *authority*, to set the question at rest; others, who might have hesitated to admit this *competency of authority*, have saved themselves the trouble of investigation, by the reflection that, as the character of the Judge was high, and the matter very important, such a decision would scarcely have been made without a due examination of the subject; the great majority of the younger clergy, uninstructed upon such matters altogether, have been content to follow in the crowd; all, perhaps, being affrighted more or less, by a no very distant prospect of pains and penalties, difficulties and inconveniences, vexations and expenses, which a contrary course of action *might*, and probably *would*, bring upon them.

This has been the state of the clerical mind, and, therefore, of course, of the minds of the lay members of the Church upon this subject, in that age of shallow divinity which, thanks be to God, is now fast passing away. But a better season at length having arisen upon us—a season of far greater soundness in Theology—of more inquiry and greater earnestness among all the members of our Church—of greater *caution*, greater zeal, greater piety in its clergy—a strong disposition to hesitate and inquire and restore—a disposition “to stand in the ways and see, and ask for the *old* paths, where the *good* way is, and walk therein*”—no

* Jeremiah vi. 16.

longer is this decision of the late Sir John Nicholl resisted by *one* person, perhaps, here and there, marvelled at for his boldness, and censured for his “disobedience to authority”—no longer is it lamented and spoken against by a *few*, exciting wonder, perhaps *scorn*, upon their singularity of opinion—but now *many* clergymen in *every quarter* of the country, are refusing to submit themselves to its guidance*, while a suspicion of its fallaciousness is fast spreading throughout the entire clerical body, and a conviction of the mischief which it has brought upon the Church.

Now, in truth, that a sounder system of theology is abroad, it begins to appear marvellous, and to excite feelings of astonishment, how a large body of the clergy should have ever given themselves up to the guidance of this decision, under the idea that Sir John Nicholl, or any other lay Ecclesiastical Judge, *was competent, in point of authority, to set such a question at rest*. I am not now about to enter upon the very debatable subject of the constitution of Ecclesiastical Courts generally, or to investigate the question whether or not the Arches Court of Canterbury, as it now is, was a proper tribunal to decide upon the individual case which was brought before it; but I think it must be evident to every moderately well-informed and reflecting theologian, that even if such a Court be compe-

* Instances of this in *eight* different dioceses have come to my own knowledge.

tent to declare upon the nature of an *individual case*, at any rate it is not competent to the promulgation of a *general law*. The theory of an Ecclesiastical Court in such matters, whether that theory be right or wrong, is that it should investigate and declare whether, *in the individual case which has been brought before it*, the individual party or parties, against whom the cause has been promoted, have acted rightly or wrongly; and in accordance with this theory, the decision under consideration was thus delivered:—"Upon the whole of the case, and for the reasons assigned, the Court is of opinion that the Minister, in refusing to bury this child in the manner pleaded in the articles, has acted illegally*." But though Sir John Nicholl is manifestly desirous of guiding the entire clergy by this decision, (as in fact he has done,)—though he speaks of "the suit being interesting to the clergy generally, *as ascertaining the law by a judicial decision*†"—though he talks of it as "being probably brought for the sake of *deciding the question*, rather than of punishing the individual‡"—though, in connexion with this, he tells of "the hope" which "the Court has of *setting the question at rest*§",—still even *he* did not claim for the Court over which he presided this *competency of authority* for the *general* decision of such a question—he did not, I mean, lay claim to an authority for the pronouncement and promulga-

* Judgment, pp. 46, 47. † *Ib.*, p. 46.

‡ *Ib.*, p. 46.

§ *Ib.*, p. 47.

tion of a general law, which should be binding upon the whole body of the clergy.

In fact, whether it be right or wrong for an Ecclesiastical Court, constituted as these courts now are, to pronounce upon the *past* conduct of an individual clergyman in the performance of his ministerial duties, such a court, at any rate, is not competent to give authoritative directions as to his *future* practice. Concerning the service of the tabernacle, and the performance of the Church's rites, the law of the land, as well as the law of God, recognizes the Bishop of the diocese, *and no one beneath him*, as the proper resolver of the doubts and difficulties of individual clergymen, and the director of their conduct. The instructions, &c., at the beginning of the Prayer-book, "Concerning the Service of the Church," state that, "Forasmuch as nothing can be so plainly set forth, but doubts may arise in the use and practice of the same; to appease all such diversity (if any arise) and for the resolution of all doubts concerning the manner how to understand, do, and execute, the things contained in this Book; the parties that so doubt, or diversely take anything, shall always resort to the Bishop of the diocese, who, by his discretion, shall take order for the quieting and appeasing of the same; so that the same order be not contrary to anything contained in this book. And if the Bishop of the diocese be in doubt, then he may send for the resolution thereof to the Archbishop."

Such is the ordinance of the Church, an ordinance not only manifestly accordant with the will of God, but, to the great blessing of the land, adopted by the civil power. Such is her ordinance for the resolution of doubts which may occur to *individual* clergymen, “concerning the manner how to understand, do, and execute,” any of her rites. But for the formation and promulgation of a *general* law, the establishing of a *universal* decision, an *authoritative* declaration concerning the manner how such things are to be “understanded, done, and executed,” *by the whole body of the clergy*, we can look to nothing lower than the voice of an Episcopal Synod.

Neither in the one instance, nor in the other, can the function be delegated to any *lower* authority than that to which it has been entrusted; because, in such cases as those of which I am speaking, the Bishops are called upon to act, not as ἐπισκοποι only, but rather as God’s ἀποστολοι and ἄγγελοι. The purely *episcopal* powers, the functions of simple *overship*, may be delegated to others; (as they are to the Archdeacon, who, accurately to define the limits of this delegation, obtained of old the denomination of *the bishop’s eye**;) but the strictly *angelic* and *apostolic* functions, committed unto both by God himself, according to, and *only just* according to, the measure of His apportionment, worked out in either by the influence of His Spirit, “dividing to every man severally as He will”—these

* See Appendix, Note A.

functions, thus given, thus limited, and thus acting, do not admit of delegation;—neither can a Bishop commit his apostolic functions to one who is destitute of the apostolic unction, not having the same “sending” with which he was “sent;”—nor yet can an Episcopal Synod deligate to individual Bishops the exercise of its synodical functions; as it cannot impart to them the grace of *united* apostleship, that greater measure of the Spirit’s guidance which to it, *as a Synod*, is vouchsafed*.

For these reasons I would urge that the decision of the Court of Arches, in the case before us, was totally insufficient to lay the smallest moral obligation on the clergy, as to their course of action on similar occasions; and that, while each individual clergyman is bound to refer doubts which he may have upon the subject to his Diocesan, and to ask and to follow his directions, a “setting at rest” of the question is not to be obtained—*a general decision, binding upon the clergy at large*—from any but synodical authority.

With respect to the delegation of the higher and apostolical functions of a Bishop, I am glad to be able to bring forward such a witness as Leslie to the truth of the opinion which I have here advanced:—

“One Bishop may desire the assistance of another Bishop, so there may be coadjutor Bishops—nothing hinders their mutual assistance of one another in their several charges, by agreement, as

* See Acts xv.

occasion shall require. But they cannot delegate their power to those who are no pastors, to whom *Christ* has given no such authority. They must first make men pastors and give them ordination before they can commit the flock to their charge. They cannot delegate the Episcopal power (properly so called) to Presbyters, without giving them Episcopal Consecration, much less can they do it to laymen." (LESLIE, *Case of the Regale*; Works, Ed. 1721, vol. i., p. 607.)

The quotation here given, from one of our best divines, relates only to the delegation of apostolic functions to those who are not Apostles; but I believe that no one who has studied the Acts of the Apostles, and the circumstances attendant upon the assembling of the first* recorded Synod at Jerusalem, can suppose it possible to delegate to individual Bishops, functions which are purely synodical.

This is evidently the view which the Church of England holds upon such subjects; as it appears from her manner of deciding a case of general difficulty, to which I shall have occasion more fully to refer hereafter. It is well known that before the Reformation children, in danger of immediate death, were permitted to be baptized by midwives, or any other persons who might happen to be present. After the Reformation there seems to have existed

* The *first*, except that at which Matthias was elected and consecrated.

in the minds of the people generally much doubt and hesitation as to whether this practice had still the sanction of authority. The subject was brought before the Bishops of the province of Canterbury, A.D. 1575; and they, after referring to the recognition of the authority of each Bishop to settle such doubts in his own diocese which I have just now quoted from the Prayer Book, proceeded, in their synodical capacity, to command every Bishop in the province to forbid the practice, and to publish the inhibition of it in every parish church within his diocese, before a certain day*.

This, of itself, is sufficient to point out the doctrine of the Church of England concerning the *general* determination of such matters of difficulty; and that, in the individual case before us, the Arches Court of Canterbury was not a competent authority to put forth such a *general* determination, is witnessed not only by Archdeacon Daubeney in his "*Examination of Sir John Nicholl's Judgment*," and by the Consistory Court of Gloucester, which subsequently decided, in a case exactly similar, that the "*defendant had acted legally, justifiably, and according to the Rubric, Canons, and constitutions of the church, and that if he had acted otherwise he would have been liable to the censures of his Ordinary for disobedience to them†*," but also by the late venerable and learned

* Convoc. 1575, Art. 12.

† *Examination of the Judgment of the Right Hon. Sir John Nicholl.* Bath, 1811. P. 117.

Bishop Burgess, in "A Charge to the Clergy of the diocese of Salisbury," A.D. 1826, in which he writes that "The sentence of a learned Ecclesiastical Judge, by which it was decided that the Church Service should be read by the clergy, if required, over the corpse of a person not baptized according to the usage of the Church of England, has a tendency to lower the importance and necessity of baptism and the authority of the Established Church; yet a clergyman who may think such sentence contrary to the Rubric of the Common Prayer may conscientiously submit to the law so interpreted by an Ecclesiastical Judge. He may not less conscientiously (I think) *refuse to read the Service*, if he is prepared to risk the expense of prosecution, and make the ultimate appeal*." P. 26.

It might however be supposed, and it seems to have been concluded by most of us, that although a decision of the Court of Arches might not be sufficient to set such a question at rest, on the grounds of the existence of a competency of *authority* for that purpose in such a tribunal, still it might do so upon other grounds—as laying upon the clergy a kind of *secondary* moral obligation, inasmuch as it is scarcely to be imagined that a court of this nature, presided over by a Judge of such high

* I do not quote this, as agreeing entirely in the opinions expressed in it, for I believe that it contains more than one fallacy, but merely as a witness to the fact of the incompetency of the Court of Arches to *bind* the Church in this particular.

respectability as the late Sir John Nicholl, would venture to pronounce a decision so important, without a careful examination of the grounds on which such a question should be determined. Hence, perhaps, it is, more than from an idea of the existence in the Court of Arches of any competency of actual *authority*, that the great majority of the clergy have given themselves up to the guidance of this decision; and surely if we consider how much deference it is the province of the *humble* Christian to pay to the opinion of the good, and wise, and learned,—especially when they occupy positions which give them peculiar advantages for forming a *right* opinion, and lay upon them peculiar obligations for the exercise of great caution and discreetness in the promulgation of it,—especially, too, when that opinion has been long concurred in by almost all of those who were most able to dispute and expose it, and has been at least *tacitly* adopted by almost all those whose peculiar *province and duty* it was to resist it, if erroneous,—surely, then, there will appear little room for wonder that this decision has been quietly acted upon by the great majority of the clergy,—that those who, at the time, were in the exercise of their high office, rejoiced in such a settlement of a disputed question, though in a way, perhaps, contrary to their opinions—and that those who have year by year entered the ministry subsequently to the date of the decision, should, for the most part, have quietly and submis-

sively acquiesced in it, without any examination of its premises.

This state of things, perhaps, would have continued indefinitely, if the controversies, or rather inquiries, which happily have been forced upon us at the present day, had not awakened doubts in the minds of many of the clergy, by presenting difficulties, seemingly insurmountable, in reconciling the decision of Sir John Nicholl with the spirit of early Christianity; and these doubts have been strengthened by the appalling view of evils which I shall presently allude to, immediately practical in their character, and almost unlimited in their extent—evils which are striking at the root of Christianity in this country, and are fostered and upheld by this decision.

Inquiry thus having been excited to this subject, and a disposition to examine into the *grounds* of Sir John Nicholl's decision, it very plainly appears to many that the late Archdeacon Daubeny, who at the time of its delivery almost alone lifted up his voice against it, was perfectly justified in his denunciation of it.

If it be asked how it is that this fact, if it be one, was not recognised at the time?—I can only answer, but I may do so I think without fear of contradiction, that people were not so ripe for such inquiries then as they are now—that the clergy, as a body, were not so well informed—that catholic principles were not so widely understood—that the learning and arguments and piety of the objector

were not likely to be so highly appreciated—that there existed more carelessness in the performance of ministerial duty—that the practical evils of the decision had not then been proved—that the war then so occupied the public mind that it had no taste for what might appear mere theoretical inquiry—and finally, perhaps, there is some truth in an assertion which I have heard, that there is at once a dryness and a diffuseness about Archdeacon Daubeny's *Examination*, and, to some minds, an apparent *weakness*, (arising only from the circumstance of his neglecting often to follow out his principles and arguments to their full and legitimate extent,) which has caused to lie almost unheeded a book which is a complete answer to Sir John Nicholl's Judgment, and an exposure of the false premises on which that Judgment was founded.

I shall presently take occasion to lay before my readers, briefly, the argument, if it may be called so, on which the Judgment of Sir John Nicholl proceeds, and to point out how little it is deserving of the deference which for the last thirty years it has received; but it may be well if, in the first place, I allude to the objections which exist against the performance of the Service—the reasons why many clergymen consider it a burden upon their consciences to Bury persons baptized by Dissenters.

If this matter were once decided by legitimate authority—if an Episcopal Synod should declare that such persons were to receive Christian Burial—

no clergyman of catholic principles could hesitate for an instant to perform the Service, knowing that, as it would then be schismatical to do so, no blessing, but a curse, would rest upon the refusal. The same would be the case, in the event of an individual Bishop, as Bishop, giving directions to an individual clergyman for the performance of the Service. In this case too, I affirm, no clergyman of catholic principles could hesitate, whatever might be his own private opinions, knowing that obedience is more acceptable to God than sacrifice, and that the Bishop, being God's vicerent in his diocese, to set himself against the Bishop would be, as Ignatius testifies, to affront Him who is invisible*. But so long as the question is not decided by any such legitimate authority, so long must there remain, in the minds of many, most serious and weighty objections.

The first of these objections, and to most minds the strongest of all, inasmuch as it has an immediate relation to the Deity Himself,—and which, if the groundwork of the objection be valid, involves the performer of the Service in the sin of presumption, if not of blasphemy,—is founded upon the construction of the Service. The Burial Service is constructed as having reference to one who has “departed hence in the Lord,” who, as being a member of the visible church on earth, is, as far as we can tell, “a very member incorporate of Christ's mystical body,” and concerning whom, therefore,

* Ep. ad Magn. See Appendix, Note B.

we make use of terms and phrases denoting a nearness of relationship, (so to speak,) to God in Christ, and claiming for him the covenanted blessings of adopted sonship. Now, putting aside any *certainty* of feeling as to the *invalidity* of the person's baptism, putting aside, too, the *certain* conviction of the truth of that which, as we shall hereafter see, was, *at the utmost*, the opinion of the ancient Church,—that though the baptism of such a person was in such sense *valid*, that it was not to be *repeated*, still that he was not *within the Covenant of Grace*;—putting aside the case of all *certainty* of feeling upon these points, and allowing it only to be a case of *uncertainty* whether the person had died a member of the Christian Church or not,—surely it would be great presumption, amounting almost to mockery, to make use of, with respect to that person, the words “Forasmuch as it has pleased Almighty God, of His great mercy, to take unto Himself the soul of our *dear brother* here departed;” and again, “We give Thee hearty thanks for that it has pleased Thee to deliver this our *brother* out of the miseries of this fearful world,” &c., &c.—Surely where, to say the least, a considerable *doubt* exists whether Christ's ordinance has *ever* been complied with—whether the person has ever been *admitted* to the family of God—hope, *earnest hope*, is the utmost we can entertain:—such words of *confidence* are somewhat out of place.

On the other hand, however, it is often con-

tended that where such doubtfulness exists—where there is an *uncertainty* whether the person to be buried be a brother or not—it is the office of the *Christian Minister* to perform the Service, *under a charitable presumption that he is so*. I strongly suspect that this opinion has in it more of laxity and indifference to truth than those who hold it are aware of. It is the disposition of the present age, though it is one, we may hope, which is fast passing away, to display a tenderness toward, almost amounting to a *connivance with*, the errors and faults of our fellow men, while we display a far inferior amount of *zeal* for the honour and the word of God. We seem to suppose that the order of Gospel love is to be inverted; that that toward our neighbour is the *primary* duty, to which that toward our God is only *secondary*; forgetting that all love is false, though specious, which is not grounded on a love of truth, and that “the end of the commandment is charity, *out of a pure heart, and of a good conscience, and of faith unfeigned**.”

In the case, indeed, in which a person has been admitted to the Christian covenant, but afterwards falling into sin has died apparently *therein*—towards such a person, *unless under sentence of excommunication*, such a “charitable presumption” as that which we have spoken of, may, or rather *must be*, exerted; because we know not the sentence of “the invisible God” upon our brother, as He has not

* 1 Tim. 1. v.

caused that sentence to be pronounced by His visible agent and vicegerent ; to our eye, therefore, he is still “ a brother ”—for it would be horrible impiety in us to climb to the judgment-seat of Christ*. This case, however, presents no analogy to the case of which I was before speaking ; or rather the analogy is *against* it. In that case the doubt was, whether the person had ever been *admitted to* the Christian covenant, whether God’s unmerited favour had *ever* conferred upon him an unmerited, inestimable privilege ; and the doubt was grounded upon the fact of the privilege not having been conferred through the ordinary appointed means, and the concurrent fact of God having not pronounced by His agent and vicegerent, the Bishop, whether, in the absence or neglect of these ordinary appointed means, the inestimable privilege had been conferred at all. In such a case what is called “ *a charitable presumption,*” ought surely rather to be designated *a most impious presumption* ; it is a daring, undelegated assumption of functions which are simply apostolical,—a mockery, in the delivery of a sentence which we have no power and authority to award.

The other objection which I shall notice to the performance of the Burial Service over persons baptized by Dissenters, is of a character which would usually be called more immediately *practical*. One of the greatest evils in the Church of England at the present day is the state of the sponsorial disci-

* See Appendix, Note C.

pline. It is an accusation made against us by our enemies, and we are fully open to the charge, that we admit *almost any one* to undertake the sponsorial office. Usually no inquiry whatever is made as to the qualification of the persons who present themselves to "answer" for a child; and in many places, from a sickening consciousness of the inefficiency of the system in its present state, (may I not say of its impiety?), the clergy have, or at any rate *had*, permitted the custom to be almost altogether discontinued. Hence, one of the Church's oldest and wisest institutions for bringing up her children in the fear of God has been rendered almost entirely nugatory, and the evils which have resulted, (more even, I believe, from this than from any other cause,) are sufficiently apparent in the well-nigh heathenish condition of a very large portion of our Baptized population. This evil has grown upon us gradually; partly, it is to be feared, from carelessness in the clergy; partly from the great and rapid increase of population, while the number of the churches and ministers has not been proportionally augmented; partly from the decline of discipline, arising from the interference of human law-givers; partly from the decay of charity, manifesting itself in an unwillingness in those who feel its nature to undertake for others a most delicate and most responsible office; but partly, also, and most largely, from the fancied compulsion which the decision of Sir John Nicholl, in *Kemp v. Wickes*, has

for the last thirty years laid upon the clergy of performing the Church's Burial Office over persons baptized by Dissenters. I will explain my meaning in this particular.

The Church has made perfect provision for the prevention of the evils which are here spoken of. The 29th canon of 1603 ordains that

“ No parent shall be urged to be present, nor be admitted to answer as godfather for his own child ; nor any godfather or godmother shall be suffered to make any other answer or speech than by the Book of Common Prayer is prescribed in that behalf ; neither shall any person be admitted godfather or godmother to any child at christening or confirmation, before the said person so undertaking has received the Holy Communion.”

Here, then, it is commanded that the sponsors for each child shall be beside, and beyond, its *natural* Christian guardians, that the Church may have an increased security for such child being brought up in the knowledge and the fear of God ; and in order to make this security the strongest possible, she further ordains that each person so admitted as a sponsor shall be a *Communicant*.

Now the reason of this ordinance is very evident, namely, that one who is neglecting his own Christian duties, or despising his own highest privilege, or one who is not yet considered fit to be admitted to it, is not a proper person to “ undertake” for the child that he shall be brought up “ sound in

the faith," "a good soldier of Jesus Christ." And on the other hand, it is evident that the enforcement of this canon, together with a tender and watchful care concerning admission to the holy Eucharist, must furnish an almost complete remedy to the evils of which we have been speaking. Here, then, the difficulty presents itself which has arisen from the decision of Sir John Nicholl, and it is a difficulty (not indeed insurmountable, for this I cannot allow it to be, though many assert that it is so,) which I believe every clergyman of a large parish, who has conscientiously endeavoured to restore, in this essential particular, the beautiful though neglected discipline of our Church, has found it most difficult to contend with.

It is a well-known and most lamentable fact, that the great motive among the poor, and it is to be feared, also, among some higher classes of society, in many parts of the country, for desiring Baptism for their children, is, that they may thereby become entitled to Christian Burial. It is a singular circumstance, and one which presents to us some faint ray of hope, that among the majority of those who seem almost to have no faith at all, and of those, too, who neglect and despise God's chosen ordinances, setting up for themselves or frequenting unauthorized assemblies, there is still a great holding to the Church in this particular; so that those who would desire Baptism for their children for no other reason would, and do, desire it for this; and

those who have a better motive in securing to their offspring that holy rite, would, for the most part, be careful *so* to secure it, as to secure for them also the performance of the Burial Service after death. Now, no clergyman, in large parishes especially, can be ignorant of the difficulty which at present exists of procuring sponsors *at all* at Baptism ; still more so proper and canonical ones. Parents usually, alas ! are careless, *often jealous*, about the matter, and friends are unwilling to undertake the office. Even the enforcement of the first part of the canon, that which relates to *parents*, often presents almost insurmountable difficulties ; while the enforcement of the latter part, relating to *communicants*, increases those difficulties so enormously, that it has a manifest and most powerful tendency to make the parents of the child seek at the dissenting meeting-house that convenient lenity and laxity which the Church does not present to them, and procure a baptism for their offspring which the Church, by acting on Sir John Nicholl's decision, has taught them to consider complete, but which, with the utmost which can be said of it, is at any rate of *very doubtful validity*, and which, though esteemed *valid* for some ages in a large portion of the Christian Church, *was never supposed to be a baptism to salvation*.

Here, however, it is to be observed that it is contended by many, and those, too, of high character for piety and learning, that the latter clause of the 29th canon of 1603 will not necessarily,

perhaps not fairly, bear the interpretation which I have put upon it. It is said, that it does not exclude from the sponsorial office persons who are not communicants, but has relation only to the *age* of the sponsor, and excludes only those who are *not old enough* to be communicants.

Now it must be acknowledged that the *title* of the canon (on which this opinion is chiefly grounded) affords to it *some* support. “*Fathers not to be god-fathers in baptism, and children not communicants ;*” and a like support to it also, it may be imagined, is furnished by the *Latin* title, as it is given by Sparrow*,—“*Parentes in librorum eorum baptismate, et pueri cœnæ Dominicæ incapaces, susceptores esse prohibiti.*” Still, however, it seems somewhat singular to mention the Holy Communion in this canon merely as a mode of marking *age*. I am perfectly ready to admit that the *age* of the person is alluded to ; but I must contend, at the same time, that it is alluded to not as a *primary*, but as a *secondary* consideration ; that the Church did not intend to ordain that children shall not be sponsors *because they are too young* to be so, but that children shall not be sponsors *until they have received the communion*. Why, then, mention *children* at all ? Simply because the Church has no notion of any one else within her pale *not* being a communicant. One of the Rubrics, at the conclusion of the Communion Service, ordains

* SPARROW'S *Collection*.

“That every parishioner shall Communicate at the least three times in the year, of which Easter shall be one.”

And the 21st canon of 1603 commands, that

“In every parish church and chapel, where sacraments are to be administered within this realm, the Holy Communion shall be ministered by the parson, vicar, or minister, so often, and at such times, as every parishioner may Communicate at the least thrice in the year—whereof the feast of Easter to be one, according as they are appointed by the book of Common Prayer.”

And the 112th canon provides, that

“The minister, churchwardens, questmen, and assistants of every parish church and chapel, shall yearly, within forty days after Easter, exhibit to the Bishop or his chancellor the names and surnames of all the parishioners, as well men as women, which, *being of the age of sixteen years*, received not the Communion at Easter before*.”

From which it most plainly appears that the Church of England does not recognize any one as hers who is not a Communicant, excepting only such as are under the age of sixteen years; which exception was also frequently pointed out in the

* We find these rules made articles of enquiry at the episcopal visitations, and not left as dead letters. Thus, in the Bishop of London's visitation, A.D., 1604:—“Whether any of your parish, being of convenient age, have not received the holy communion thrice this last year at least—namely, at Easter, or thereabouts, for once; and what their names are?”

Articles of Enquiry at the visitation of the Bishops of the sixteenth and seventeenth centuries.

It is doubtless for this reason that the word *children* appears in the title of the canon* which forbids any person to be sponsor for a child, “before the said person so undertaking hath received the Holy Communion.” And that I have rightly interpreted this canon, as forbidding the admission of *non-communicants* to the sponsorial office; and as referring to *children*, not *as children*, but only as *cœnæ Dominicæ incapaces*, (which our Church appears certainly to consider them to be,) will further be evident from a reference to ecclesiastical documents of the sixteenth and seventeenth centuries.

“Item—That no childe be admitted to answer as godfather or godmother, *except the child hath received the Communion.*”—*Elizabeth's Injunctions*, A.D. 1564. (SPARROW'S *Collection*, et WILKINS, iv., 249†.)

“Whether any person or persons be admitted to answer as godfather or godmother to any child *except he or she have before received the Holy Communion?*”—*Articles of Enquiry at Visitation of Bishop of London*, 1571.

* 29th canon.

† In the British Museum there is a copy of the *Injunctions*, printed 1584, in the margin of which, opposite to this injunction, in a *very old* hand-writing, are these words:—“Godfathers and godmothers *of what sort?*”

These *Injunctions* were agreed upon and subscribed by Archbishop Parker, and the Bishops of London, Ely, Rochester, Winchester, and Lincoln.

“Whether any person or person be admitted to answer as godfathers or godmothers at the christening of any child, *except he or she have before received the Holy Communion*, can say by heart the Articles of the Christian Faith, the Ten Commandments of God, and the Lord’s Prayer.”—*Articles to be Enquired of Churchwardens and Swornmen, to be Answered on Oath*, 1597.

“Have any in your parish been godfathers or godmothers to their own children? or *whether any who have not Communicated* be admitted to be godfathers or godmothers?”—*Articles of Enquiry at the Metropolical Visitation of the Archbishop of Canterbury*, 1605; and at *Diocesan Visitation of Archbishop of Canterbury*, 1609.

This, be it remarked, was the Archbishop’s enquiry to the entire province, within two years after the above canon was made, and therefore may be fairly taken as an interpretation of it.

“2. Item.—Doth your minister admit any to be godfathers *who have not received the Holy Communion*?”—*Articles of Enquiry at Visitation of the Archbishop of Canterbury*, 1618.

“Doth your minister admit any father to be godfather to his own child, *or such as have not received the Holy Communion*?”—*Articles of Enquiry at Visitation of the Bishop of Lincoln*, 1635.

“Hath he (the minister) admitted any to answer as godfather or godmother, any parents, *or such as have not received the Holy Communion?*”—*Articles of Enquiry at Visitation of the Archdeacon of Norwich*, 1638.

“Have any been admitted for sponsors at baptism *who have not first received the Communion?*”—*Articles of Enquiry at Visitation of the Bishop of Winchester*, 1639.

The next preceding question being “*Whether all persons of fit age do receive the Communion?*”

“Doth he (your minister) admit such to be a godfather or godmother, who are either one of the parents of the child, *or who have not themselves received the Holy Communion?*”—*Articles of Enquiry at the Visitation of the Bishop of Ely*, 1670.

The same appears in the *Articles of Enquiry at the Visitation of the Archdeacon of Middlesex*, 1660, and also of *the Archdeacon of St. Albans*, 1716, (which are to be found in the Library of the British Museum, as also are the others to which I have referred.) From all of which I argue, that it evidently appears to be the intention of the Church, in the 29th canon, to exclude from the sponsorial office children,⁹ *not as children, but as non-*

communicants; to which conclusion also the Latin version of the canon itself would lead us:—

“Parentes librorum suorum baptismate interesse non impellentur, neque eisdem etiam permittetur pro propriis infantibus ad sacrum fontem susceptorum loco respondere. Præterea nulli susceptori aut susceptrici licitum erit aliis verbis in respondendo uti, quam quæ in libro publicæ liturgiæ hanc in partem sunt præscripta—nec quisquam ad officium susceptoris vel susceptricis pro parvulis baptizandis vel confirmandis admittetur *qui cænæ dominicæ particeps nondum extiterit*.”—WILKINS’S *Concilia*, iv. 384; and SPARROW’S *Collection**.

And this conclusion, that the Church intended to exclude from the sponsorial office *all persons who were not Communicants*, and mentioned *children* in the title of her canon, simply, because they *alone*, according to her discipline, *could* come under the description of persons who are mentioned in the canon; (for they *alone*, as we have already pointed out, can canonically defer Communicating, and no one may leave off the practice;)—this *conclusion* is strongly borne out by a reference to the discipline of the early Church upon this matter:—

“The only persons whom the ancients excluded from this office (the sponsorial,) were catechumens, energumens, heretics, and penitents, that

* Bishop Gibson (*Codex*, p. 363,) refers to the latter clause of this canon thus—“Nor any to be Godfather before receiving the Communion.”

is, persons who *were yet never in full Communion with the Church*, as being themselves unbaptized; or else such as had forfeited the privileges of their Baptism and Church Communion by their errors, or crimes, or incapacity to assist others, who needed assistance themselves. And by some canons persons *who were never confirmed*, were excluded from being sponsors, both in baptism and confirmation." BINGHAM'S *Antiq.*, B. xi., ch. viii., sect. 10.

I have been led into this somewhat lengthy, but necessary digression, not in order to support a theory, but to vindicate the Church of England from charges which are made against her by her adversaries, and to point out a remedy—*her own* remedy it is—for the enormous and most appalling evils which at present exist in our sponsorial system. If no sponsor were admitted at the font but such as had received the Holy Communion, and no one, of course, admitted who did not *continue* to receive it, (such being either under penance, or under the greater excommunication, whether for other crimes, or for neglect of the ordinance itself*,) it must be evident to all, that not only would our *reproach* utterly be put away, but that an ever-growing evil would be stopped; and to those, who view things with the eye of faith, the truth must be as clear as is the sun in heaven, that the Church's integrity and her holiness would be restored, for God's blessing would undoubtedly be

* See Appendix, Note D.

upon her. This, it has been pointed out I think with sufficient clearness is a part of the Church's own sponsorial discipline, and to act upon it would be to do no more than to obey her own most solemn injunctions; doubtless, therefore, it is the duty of every clergyman to do so;—nor does it, even now, present difficulties absolutely insurmountable*. But we have already seen that the effect of Sir John Nicholl's decision has been to render those difficulties so great, that they are well-nigh sufficient to scare the most faithful, zealous, and determined clergyman, while the majority of characters, being ill adapted to *contest* without *contention*, and to a firm unwavering, unhesitating course, amid conflicting evils, are at once *overawed* by the prospect which is presented to them, and *venture* not to oppose the mischief they deplore.

I have thus, I trust, sufficiently cleared myself, and the many who think with me, from the charge which might, nay, actually is, made against us, of a lack of charity, perhaps a lack of wisdom, in opening again what appears to some persons a mere *theoretical* dispute, which (though it might be not very properly) has so long, in a manner, been set at rest; and thus, having pointed out the great evils, with reference both to God and man, which Sir John Nicholl's "determination of the question" has created, and having also shown that

* I have been informed that in one parish in Essex, containing from two to three thousand persons, this rule as to sponsors is fully carried out.

he had *no competency of authority* to bind the Church at large, I proceed to examine, briefly, the grounds on which his "Judgment" was pronounced,—to try whether, *as an opinion*, it is worthy of the deference it has received.

After stating the facts of the case which had been brought before him, Sir John Nicholl proceeds to comment upon the 68th canon of 1603, which forbids clergymen to refuse to Bury any persons but those who have died under sentence of the greater excommunication, concerning which he tells us, that perhaps it has been rightly argued—"That by the general description, '*persons*,' is here to be understood *Christian* persons, and therefore, that where application was made for the Burial of any persons who might not be considered as Christians, they did not come within the description of the canon." P. 8.

Thus far I entirely agree with him, and should be content to try the issue upon these grounds. He proceeds, however, to enlighten us upon the Rubric, which is prefixed to the Burial Office, and which forbids that Office to be used for any who die unbaptized, or excommunicated, or suicides. And after observing that, "These directions contained in the Rubric are clearly of binding obligation and authority. Questions indeed have been raised respecting the canons of 1603, which were never confirmed by Parliament, whether they do in certain instances, and *proprio vigore*, bind the

laity.” (And pray why not them as much as the clergy?) “But the Book of Common Prayer, and therefore the Rubric contained in the Book of Common Prayer, has been confirmed by Parliament.” P. 8.

—“The Rubric, then, or the directions of the Book of Common Prayer, form part of the statute law of the land.” P. 9.—

—He concludes that, “The question is, whether this infant, baptized with water, in the name of the Father, the Son, and the Holy Ghost, by a dissenting minister, who is pleaded to have qualified himself according to the regulations of the Toleration Act (!), did die unbaptized, according to the true meaning of the Rubric. If the child died unbaptized, the minister was not only justified, but it was his duty, and he was enjoined by law, not to perform the service. If the child did not die unbaptized, then he has violated the canon, by a refusal neither justified by any exception contained in the canon itself expressly, nor by any subsequent law.” P. 10.

Indeed!—This certainly makes the case as *simple* as possible! But I fear that it will appear presently that there are *other* questions to be discussed, relating to the bearing of this Rubric upon the case before us, than the validity of a baptism with water, in the name of the Trinity, and by a dissenting minister who is pleaded to have qualified himself, (*qualified himself!* most expressive, by the

way!!!) according to the regulations of the Toleration Act*!!!

But to proceed : having thus, as he supposes, reduced the question to a simple form, he goes on to explain the meaning of the term "unbaptized" in the Rubric, which he rightly remarks is to be ascertained, "First, by considering the words in their plain meaning and general sense, unconnected with the law; and, in the next place, by examining whether any special meaning can be affixed to the words, when connected with the law, either in its context or in its history." The *plain and simple* import of the term, he says, is, "A person not baptized at all—*not initiated into the Christian Church.*" P. 11.

And then he proceeds—

"In the common use of language, it may be said that this 'person, A., was baptized according to the form of the Romish Church; that another person, B., was baptized according to the form of the Greek Church; that another person, C., was baptized according to the form of the Presbyterian Church; that another person was baptized according to the form used among the Calvinistic Independents; and that another person was baptized according to the form used by the Church of England; but it could not be said of any of those persons that they were

* It is, indeed, singular, that the Toleration Act should be made an element in the question of the validity of a baptism. As if that Act of Parliament could modify the sacraments of the Gospel! The idea is impious!

unbaptized; each had been admitted into the Christian Church in a particular form.”—p. 11.

Can these have been the words of “The Official Principal of the Arches Court of Canterbury”? It is indeed *too* true! Alas! for the Church of England, what danger has she seen! Was Sir John Nicholl a “Calvinistic Independent”? or did he belong to “the Presbyterian Church”? Was it with him no oft-repeated creed that God’s Church is “Holy,” “One,” “Catholic,” “Apostolic”? How was it that, in the responsible office which he held, the ninth and tenth Canons should be utterly lost sight of? * Archdeacon Daubeney rejoiced that “the publication of the Judgment had put it in the power of every duly-informed person to examine the strength of the ground on which that Judgment was made to stand†;” but without such an examination, we have already seen enough to convince every Catholic Christian, though only just learned sufficiently to understand the Creed which he repeats, that this Judgment, which we are considering, (whatever be its own intrinsic merits,) is, *as Sir John Nicholl’s opinion*, unworthy of the deference which has been paid to it; for any opinion on theological subjects must be received with caution, nay, surely, with hesitation and suspicion, when we know that it proceeds from one who is ill-qualified to give it, as being ignorant of the first principles of the Catholic faith ‡.

* Appendix, Note E. † Examination, p. 1. ‡ Appendix, Note F.

But let us advance a little further, lest it should be thought that I am acting unjustly to one who, for many reasons, was so deservedly respected.

Having decided, as we have already seen, that persons baptized by "the Romish Church," by "the Greek Church," by "the Presbyterian Church," by "the Calvinistic Independents," and by "the Church of England," "*had each been admitted into the Christian Church, in a particular form,*" Sir John Nicholl proceeds to inquire whether any *modification* of the general meaning of the term "unbaptized," is furnished by its context in the Rubric. In order to ascertain this, he enters into a disquisition upon the term "Excommunication*;" and after informing us, most truly, that "*in the meaning of the law of the English Church,*" (why not of the whole Church Catholic?) "it is not only an expulsion from the Church of England, but from the Christian Church generally"; and that the ecclesiastical law excommunicates "Papists, Presbyterians, and Dissenters of all kinds from the Church of England;" and that the thirty-third Article, which pronounces that an excommunicated person is no longer to be considered as a Christian, no longer to be considered as a member of the Christian Church universal, "having been confirmed by Act of Parliament," an excommunication by this country (!)—though "a foreign country could not indeed notice it (!)" for that "the discipline of

* Pp. 11-13.

the Church, and its punishment by excommunication, only extend to this country!" (alas! are we then no longer members of the *Catholic* Church?)—"is binding upon all Her Majesty's subjects, whether of the Church of England, or whether dissenting from that Church, either as Papists, or as any other description of Dissenters"; and that, therefore, they "are bound to consider an excommunicated person as an heathen and a publican," be the person himself of the Church of England, or be he of any other class or sect!" He concludes from this most learned! most logical! most luminous! exposition of the term, that "Taking the context of the law, putting unbaptized persons in association with excommunicated persons, and with suicides," (of whom he has rightly concluded, that "having died in the commission of mortal sin, they have unchristianised themselves thereby,") "both of whom are considered as no longer Christians, it leads to the same construction as the general import of the words, namely, that Burial is to be refused to those who are not Christians at all, and not to those who are baptised according to the forms of any particular church."—p. 13.

Now, we have already seen, that by the term "particular churches," Sir John Nicholl does not mean only *particular branches of the "one" "Catholic," "Apostolic Church;"* but includes, also, under this description, all those self-formed, independent, schismatical, and heretical communities,

which the tenth Canon of 1603 pronounces to be "*pretended Churches*;" and, therefore, at this point of the "Judgment," we may consider the case decided,—and that, upon premises directly at variance with the laws and teaching of that branch of the Church Catholic, over whose highest Court of Ecclesiastical Judicature he most unfortunately presided. In truth, any one who carefully reads the entire "Judgment," cannot fail to perceive that Sir John Nicholl himself considered that the case became clear as the day, and was perfectly determined by the luminous (!) reasoning which has already been laid before my readers; and that the remaining five-and-thirty weary pages were only intended by him as an elucidation of the decision to others, and not by any means to set forward the reasons on which that decision was *grounded*.

It would be wasting the time of my readers, and my own, were I to follow out the "Judgment" further; as we have already seen that not only does it lay no *binding obligation* upon the clergy, but also that, *as an opinion*, it is founded upon false principles, and therefore is unworthy of any deference. There will, moreover, be ample opportunity of exposing the unguarded statements, shallow information, and false reasoning of Sir John Nicholl, in the course of our inquiry into the grounds on which the matter is rightly to be determined. I will now only further observe that he seems to depend for the *support* of his decision mainly on

the question of lay baptism,—upon which, we shall presently perceive, this matter does not *depend*, (though, no doubt, it is intimately connected with it); for, if the dispute concerning the validity of lay baptisms be decided in the negative, of course Sir John Nicholl's Judgment must be set aside; but if that dispute be decided in the affirmative, it by no means follows that his Judgment is confirmed. However, in running over the evidence concerning the validity of lay baptism, he touches the question more as an *advocate* than a *Judge*. He dwells most fully and properly upon all the evidence which could be collected in its favour; but passes over very slightly the evidence against it. Throughout the entire decision of the Judge, it is easy to discern, not only the ignorance, but the *prejudices* and *inclinations* of the *man*, and, in parts, he cannot even avoid giving expression to them in words. He is quite angry at anything which militates against his opinion. His misstatement of facts is most gross; for instance, the important Canon of Convoc., 1575, to which I have before alluded, and which we shall have occasion to notice more fully hereafter, he makes nothing of; greatly misquoting it; pronouncing that “it appears not to have been published and circulated; it remained in manuscript; it had no authority, not appearing to have been even confirmed by the Crown;” which allegations will be shown hereafter to be utterly false. In his notice of Wheatley, to take another instance, he is alike

unfair: he misrepresents his argument, saying that "he deals in nothing but assertion, and brings forward no authority,"—an accusation, which, it is to be hoped, the Judge never would have made, if he had read that part of Wheatley which relates to "the Office for the administration of Private Baptism," as well as that which relates to "the Burial Service*."

But Sir John Nicholl does not, after all, venture to rest the *defence* of his decision only on the question of the validity of lay baptism, but draws in motives of kindness, fairness, and expediency (all, be it remarked, on *one* side of the question,) to his aid,—and evidently conscious that all are not sufficient for his purpose, he boldly falls back upon his old position, and calls in the Act of Toleration to make dissenting ministers "lawful Ministers according to the Rubric," thus confounding the "law of the Land" with "the law of the Church;"—he misquotes an Act of James I. to prove that some classes of Dissenters are *compelled* to be Buried by the clergy,—forgetful also that stubborn facts stand in evidence against the ultimate deduction which he would draw from his argument, and that though, as he informs us, that "the Toleration Act which allows Protestant Dissenters to have separate places of worship, does not *require* them to have separate places of burial," all the older dissenting meeting-houses, erected about and near the time of the Toleration Act, have their own burial-ground

* WHEATLEY *On the Common Prayer.*

annexed. But I will leave Sir John Nicholl for the present, and as briefly as possible endeavour to investigate the grounds on which the question should be determined:—and for this purpose let us examine the Rubric which is placed at the head of the Burial Service. The Rubric runs thus :

“ Here is to be noted that the Office ensuing is not to be used for any that die unbaptized, or excommunicate, or have laid violent hands on themselves.” The last case of prohibition is, of course, beside the mark in the present inquiry ; the matter to be decided is, whether the persons of which we speak do, or do not, come under the Church’s definition of those who die *unbaptized or excommunicate*.

Before, however, entering upon this question it is necessary to mark one exception which might otherwise create some confusion. It is possible that, from circumstances either of error, ignorance, or connivance, a person who had never received Baptism might die in full communion with the visible Church. Such a case is not, I think, provided for by the Rubric, though it would seem, at first sight, to come under the exceptions mentioned. When a person is received into full communion with the Church, his baptism, whether rightly or wrongly, is *acknowledged*. He is *recognized* as a “ brother ” by the Church at large, as “ a very member incorporate of Christ’s mystical body.” As such he is, of course, entitled to *all* the privileges of Church communion, and to Burial among the

rest ; nor can he be deprived of this privilege but by *excommunication*, that is, *by being put out of the communion into which, whether rightly or not, he has been admitted*. I do not indeed mean to contend that St. Cyprian was right in deciding (as he is said to have done), that a person who by some mistake had been admitted to the Lord's Supper before Baptism, was not afterwards to be Baptized, inasmuch as "the lesser sacrament was included in the greater." It might, perhaps, have been more justly argued that as Christ's institution had not been complied with in the one case, there was, at any rate, no *assurance* of the communication of His grace in the other. But be this as it may, a person once admitted to communion with the visible Church, cannot be deprived of any of the privileges of that communion but *by a sentence of excommunication by the Bishop*, and therefore he cannot, unless under such sentence, be refused a Christian Burial.

This, then, being premised, we have next to consider whether persons baptized by dissenting preachers, and not subsequently received into full communion with the Church, do or do not come under the description of persons of which the Church speaks in the above-mentioned Rubric, as *unbaptized or excommunicate*.

Now it is to be observed that the baptism here spoken of, viz., baptism by what are called dissenting ministers, may be considered in one point of view simply as *lay baptism*, and in another also as

heretical baptism; *lay baptism* it is, as being ministered by persons who have not received Episcopal Ordination; and *heretical baptism*, as being administered in a community, which, putting aside any other errors which it may entertain, is guilty of a heresy, common to all the dissenting bodies in this country, the denial of a substantive article of the Creed, “*one*,” “*holy*,” “*Catholic*” and “*Apostolic Church**.” Under each of these points of view I would successively consider it, in order to ascertain whether persons so baptized, and not, as I have before mentioned, afterward received into communion with the Church, come under the exception mentioned in the Rubric.

First, then, we have to inquire what is the judgment of the Church of England with respect to the *validity* of lay baptism. And here I am well aware of the difficulties with which we shall have to contend.

It is well known that our Church has never *directly* pronounced any decided judgment upon this subject; that her opinion is to be *drawn* from the evidence of *indirect* testimony. Hence since such men as Hooker and Bingham have pronounced in *favour* of these baptisms, it is usually supposed, in our day, that the judgment of the Church of Eng-

* It is a very common thing to hear the Dissenters called *schismatics*; they are rather *heretics*. “Schism” is *within* the Church, anything *without* the Church is heresy. Heresies relate to *faith*, schisms merely to discipline. See BINGHAM, *Sch. Hist. of Lay Baptism*, ch. i., sect. 20. See Appendix, Note F.

land is the same. This, I proceed to show, is not the case ; and although it must be allowed that the testimony of Hooker and others presents many difficulties, I shall be able to point out, in the proper place, certain considerations which will, I think, explain them. As for the testimony of Bingham, I believe that few persons will consider it unanswerable, who will be at the pains to study *that of his opponents*. There has been, I believe, an instance almost in our own day, of truth being smothered for many years, and hunted into obscurity, by error backed by the authority of *a name*. The undulatory theory of light, when first revived by Dr. Young, was, if I mistake not, laughed out of notice by a very silly paper, published in the *Edinburgh Review*, and attributed to Lord Brougham*. In like manner (to compare great men with small) the deservedly high authority of Mr. Bingham's name has caused the arguments of his opponents to be almost altogether overlooked. Still I have no hesitation in saying that if any one wishes to become really acquainted with the judgment, both of the Church of England now and of the early Church, upon this subject, they cannot do better than study Lawrence's *Lay Baptism Invalid* ; and I think that upon an examination of the entire controversy, they will come to Mr. Lawrence's conclusion. I say not this without high authority to support me. Dr. Waterland, in his first letter on lay baptism, writes :—

* *Edinburgh Review*, No. II., Arts. XVII. and XVIII.

“I am not at all surprised at Mr. Kelsall’s judgment on the case. It is not very long since that I myself was of the same opinion, being led to it, as I suppose he may, partly by the good nature of it, and partly by the authority of great names, as the Bishops of Sarum and Oxford, and besides some passages of antiquity not well understood; and I was pleased, I confess, to see all, as I thought, confirmed by Mr. BINGHAM’s *Scholastic History of Lay Baptism*. But second thoughts, and further views, have given a turn to my judgment, and robbed me of a pleasing error, as I must now call it, which I was much inclined to embrace for truth, and could yet wish that it were so. The arguments and scruples mentioned in your letter have all, besides many more, been considered, canvassed, answered, carefully, solidly, and in my humble opinion, fully and completely. If Mr. Kelsall had seen Mr. Lawrence’s answer to Mr. Bingham, I hardly think he could despise that gentleman’s learning or judgment. But I must have a care of being too positive, lest I should seem too far to trust *my own*, or to pay too little deference to *his*, which I have a great value and veneration for.”
—WATERLAND’S *Works*. Van Mildert’s ed., vol. x., p. 1.

With such a testimony to support me—a testimony which, as it will presently appear, is coincident with that of, at least, *many* of our greatest divines—I may venture, I trust, without incurring a charge of presumption, to doubt the authority of

Hooker, Bingham, and Kennet, and some others upon this subject, and enter upon an examination of the question.

It is a well known fact that, previous to the Reformation, the Church of England, following the example of the Church of Rome, permitted lay baptism, and even baptism by women, when a child was in danger of immediate death. This practice had crept into the Western Church by little and little, and grown up with the progress of defective views concerning the Christian sacraments. As the dogma of the “opus operatum” came into vogue, this practice, as a consequence, came into vogue with it. It was confessed by all that the commission to Baptize was given by Christ to the *Apostles*—that it was part of the apostolic office, to be delegated by them, in case of necessity, to inferior ministers. Thus Ignatius testifies *οὐκ ἐξὸν ἐστὶ χωρὶς τοῦ ἐπισκοποῦ βαπτίζειν**. This seems to have been the universal doctrine of the Church in those days, that “it is not lawful to Baptize without the bishop,”—without his presence, or immediately delegated authority. Men, however, before long, arose, who, tinctured with the spirit of those early days, as far as regarded *fervency and zeal*, yet lacked its *simplicity and humility*. Hence, every here and there, some favourite point was chosen each to form in itself the centre of a system, a nucleus of a doctrinal universe, to the cycles of which all truth must be made to conform. Thus it was that many

* *Ep. ad Smyrn.* See Appendix, Note G.

heresies were formed ; their character almost entirely depending upon the nature of that point which was chosen as the centre of the system. If this involved some metaphysical considerations—some point on which *human reason* was more particularly brought to bear—the heresy usually became quickly ripe, the mischief was soon manifest, and it was *denounced as heresy* by the Church. But if it was, as it often was, some overstrained interpretation of Scripture—*some point of faith*, which took possession of the mind, and engrossed it, to the exclusion of other points of Revelation—the mischief generally grew on silently from individual to individual, and faded again silently away, or met with some counter error which produced a mutual destruction, or else went on stealthily advancing, from the few to the many, and from the many to the most, until it pervaded large divisions of the Church, and was mistaken for Catholic truth.

Thus it was that most of the Romish corruptions originated—and thus it was, I contend, that among them this practice of lay baptism arose. The first advocates for it confessed, indeed, that Christ had confined the ministration of Baptism to his ministers ; but then they argued, Christ has linked salvation to Baptism ; surely, then, it had better be given *imperfectly*, than not at all. At length, the idea grew up that Baptism *itself*, by God's appointment, conferred salvation ; instead of *the grace of God in Baptism*. Then came the notion of its *absolute* necessity, instead of its necessity *by promise* ;

and thence the *denial* of salvation to the unbaptized, instead of leaving them to God's uncovenanted mercy*.

The progress of the error (if it be such) may be instructively considered under another aspect. At first, those who advocated the custom were sorely put to it to defend what they advocated. The paradoxical Tertullian, who is usually quoted as the *first* advocate which can be found for the practice, was compelled to *defend* it by maintaining that all Christian men were priests, but restrained in the *exercise* of their priestly office for the sake of order; which absurdity, Archbishop Potter remarks, makes his *reasoning* valueless, (though he, as well as Bishop Kaye, regards him as a valuable witness to the *practice*†). He, however, most strongly reprobated the administration of the rite by *women*. This notion of Tertullian's of a universal priesthood would not stand the test of Scripture; and hence it was soon seen that if *laymen* might administer a sacrament in cases of necessity, in cases of necessity *women* might do it also. Hence the office of the administrator being no longer regarded as essential, it was soon observed that upon this theory any *personal* defect would invalidate the sacrament, if the administrator was *at all* considered.

* See Archbishop POTTER's *Theological Works*, Ed. 1753, v. ii., p. 229. Potter pronounced decidedly against *women*; but it is hard to gain his own opinion about *laymen*. See also KAYE's *Tertullian*, 2nd Ed., p. 351.

† Appendix, Note II.

Hence the administrator was left out of the question, and the matter and the words were to be alone considered. Hence baptism by *any one*, under *any* circumstances, with the right matter and form, came to be acknowledged as valid; *and whether the midwife baptized the unborn infant, or the child his schoolfellow, in a game of play, or the rite was administered by one still a heathen*, so only that the matter and the words were correct, it was, by no means, to be repeated! *

These inconsistencies (if we may call them by so light a name) were not indeed universal. They were received, as might be expected, some at one time and place, some at another; but generally throughout the Church, baptism by laymen and women, in cases of necessity, was acknowledged to be valid at the time of the English Reformation; for it seems they had forgotten that the virtue of the sacrament depends entirely upon Christ's institution—that to change the institution, is to leave it no longer what Christ instituted—and, therefore, to cut off from it His *covenanted* grace by making it no longer His *appointed sacrament*—that it was testified by the Bible and the early Church, that Christ's *commission* to Baptize was issued only to the Apostles, and their successors—and that if so, a change of the minister of Baptism would invalidate the rite, as much as a change of the matter or the form.—They considered not, in a word, how nearly their “case of necessity” was analogous to that of Saul at Gilgal†.

* See Appendix, Note I.

† 1 Sam. xiii.

The English Reformation, however, being grounded upon an examination of the Sacred Volume, *together with the records of the early Church*, rejected, though not immediately, the error which had crept in. In her XXIIIrd Article our Church proclaims it to be

“Unlawful for any man to minister the sacraments, unless he be *lawfully called and sent*.”

In her XXVIth Article she tells us that

The unworthiness of a minister does not invalidate the sacraments; because he does it “*by Christ’s commission and authority*.”

In the preface to her Ordination Services, she tells us that

“It is evident unto all men diligently reading the Holy Scripture and ancient authors, that, from the Apostles’ time, there have been these three orders of ministers in Christ’s Church; Bishops, Priests, and Deacons.—That no man might presume to execute any of them unless he were first called—and admitted thereto by lawful authority;—and that therefore, no man must execute either of these offices, *or any of their functions*, unless he be Episcopally Ordained*.”

On this point, however, of lay baptism, *in cases of extremity*, there seemed for a time to have existed, in the minds of many, some doubt as to the

* The last few words of this preface were added at the last review, the more expressly to exclude the intruders during the Rebellion.

judgment of the Church. At first, Lay Baptism was permitted and acknowledged; and afterwards the retention of an old Rubric in the Office of Private Baptism, directing that "*one of those present* should dip the child in the water, or pour water upon it," instead of "*the minister of the parish*," or some other "*lawful minister*," as it now is, had caused some misapprehension. It is testified, indeed, by Whitgift, a great advocate of the *validity* of such baptisms, that the Prayer Book did not intend to give that liberty by the Rubric which it seemed to imply*; still, and very naturally so, it appears to have created some confusion.

To set the matter, therefore, at rest, and prevent any further misapprehension, the Convocation of Canterbury, in the year 1575, enacted the following canon:—

"Twelfthly,—And whereas some ambiguity and doubt has arisen amongst divers, by what persons Private Baptism is to be administered, forasmuch as by the Book of Common Prayer, allowed by statute, the Bishop of the diocese is to resolve and expound all such doubts as shall arise concerning the manner, how to understand, do, and execute the things contained in the said book; it is now by the said Archbishop and Bishops expounded and resolved, and every of them doth expound and resolve, that the said Private Baptism, in case of necessity, is only to be ministered by a lawful minister or deacon, called to be present for that

* See pp. 76, 77.

purpose, and by none other. And that every Bishop in his diocese shall take order that this exposition of the said doubt shall be published, in writing, before the first day of May next coming, in every parish church of his diocese in this province; and thereby all other persons shall be inhibited to intermeddle with the ministering of Baptism privately: it being no part of their vocation.*"—COLLIER'S *Eccl. Hist.*, Ed. 1714. ii., p. 552.

Now, this decision is a death-blow to the *practice* of Lay Baptism in the Southern Province of the English church†, and therefore it has been most unsparingly attacked by defenders‡ of the validity of such Baptisms. Thus Sir John Nicholl speaks of it most slightly and disparagingly, misquoting it, and that with the grossest mis-statements:—

“So the practice stood (viz., of lay baptism) from the Reformation till the time of King James the First; except that in the year 1575, among some Articles agreed upon at that time in Convocation, there appears to have been one (the 12th Article) which states, ‘That to resolve doubts by whom private baptism is to be administered, it is

* See also WILKINS' *Concilia*, iv. 285; also STRYPE'S *Life of Grindal*; also GIBSON'S *Codex*, v. i., p. 369.

† The same thing seems to have been recognised with respect to the Northern Province; for Archbishop Sandys writes in 1588, “For the private Baptism to be ministered by women, I take it neither to be prescribed nor permitted.”—STRYPE'S *Whitgift*, i., 548.

‡ Hooker leaves this canon without notice. We shall see a reason for this presently.

directed, that in future it shall be administered by a Minister only, and that private persons shall not intermeddle therein.' This Article appears not to have been published and circulated. It remained in manuscript. It had no authority, not appearing to have been even confirmed by the Crown. . . . The most to be deduced from this Article is, that it was thought at that time by the Convocation that it would be more proper, regular, and decent, to have the ceremony of private baptism performed by Ministers, and therefore it was directed to be performed by them, and laics were restrained from doing it ; but the Article, as before stated, does not appear to have been published." — NICHOLL'S *Judgment*, pp. 22, 23.

Now, let it be remarked that I have copied the Article above from *Collier*, because he adds to it this intimation—"This *Article* being particularly remarkable, I have given it *in the words of the record*;" and I may add that, while there are slight verbal differences in other versions, this (*in the words of the record*) is the *strongest* of all. Let, then, this version be compared with that which I have given from Sir John Nicholl, and then let my readers decide whether it was fair in Sir John Nicholl to quote this Article in the garbled manner in which he did quote it; and that without the slightest information given that he was not quoting it at large? When we see the *real* Article, and Sir John Nicholl's version of it, side by side, and read

his subsequent remarks, are we not justified in suspecting that it assumed this reduced form in the Judge's hands, in order that it might the better bear out his intended conclusion? As to his statements, that "it was never circulated and had no authority," "not even being confirmed by the Crown," we shall see the force of them presently, from a consideration of the Article itself; but first, *as to matters of fact*, in part answer to these objections, (and to others which are sometimes brought forward, viz., that "it was enacted without the Archbishop," "and without the concurrence of the Lower House of Convocation,") I will produce the testimony of authority which will scarcely be disputed:—

"After the see of Canterbury had been kept vacant somewhere more than half a year, Grindal, Archbishop of York, was preferred thither. But before he had passed through all the forms, and completed his character, the Convocation, after several prorogations, was re-assembled at St. Paul's (February 10, 1575). And here, according to custom, the Bishop of London was president. At the second session, Grindal's translation being perfected, he came into the Convocation-house at St. Paul's, and took the presidentship upon himself (February 17). There was no business done until the 17th of March, when the Archbishop, being present, ordered the reading of the several Articles, afterwards subscribed by both Houses."—COLLIER, vol. ii., p. 551.

Here then, we see everything was regularly carried on, in an orderly manner, and the Articles, (among which this 12th appears) were agreed upon, and subscribed by both Houses; which also is testified *by the Archbishop's mandate for their publication*.—COLLIER, ii., 552.

Concerning *the 15th Article (on marriage)*, Collier adds, “The Queen refused her assent to *this Article, for which reason it was not published with the rest.*” And surely, this implies pretty plainly that there was no such reason against the publication of the 12th Article—for if there had been, would Collier have thus left us to deceive ourselves concerning an Article which he thought so much more important than all the rest, as to “give it in the words of the *record*?” Strype, indeed, tells us, in his *Life of Grindal**, that “This 12th Article is omitted in the *printed book* of these Articles.” But the fact of its not being in the “*printed book*” is no proof that it was not “*circulated and published.*” Strype himself testifies that it is in *all* the manuscript copies which he has seen. And he mentions *three* (two of which, at any rate, are of no slight authority); one, in the State Paper Office; another, among the Tower Records (*this being Whitgift's own copy, and endorsed with his own hand*, he then being Prolocutor of the Lower House); and a third, in Atterbury's *Synodal Collections*. And the fact (if it be a fact) of this 12th

* STRYPE'S *Grindal*—*Original Documents*.

Article not being in the "printed book," is no more proof that this Article was *annulled*, than is the circumstance (which Strype also mentions) of "the form of sanction of the Archbishop and Bishops, which is appended, he says, to the manuscript in the State Paper Office," being "omitted in the printed copy," a proof that that sanction was withdrawn.

If there had existed any *evidence* that the sanction of the Crown was withheld from this article, Gibson would surely have found it out; but he pretty plainly indicates that no such was to be found in his time: and I am not aware that any papers have been discovered to furnish such evidence since. His words concerning it most surely imply that this, which is stated by Sir John Nicholl as a *fact*, is only a *surmise*, arising from the circumstance of the Article not appearing in the printed copy. "This Article was not published in the printed copy; but whether on the same account that the 15th Article was left out, (*viz.*, because disapproved by the Crown,) I cannot certainly tell."—GIBSON, *Codex*, 2nd ed. vol. i., p. 369.

But, further, as there appears no real evidence *against* the Article, so is there something like positive evidence *in its favour*. Strype tells us that one of these MSS. which he had seen, and it happens to be that which he found in the State Paper Office, contained only *fourteen* Articles. The 15th Article had disappeared. How was this? This 15th Article was as regularly passed by the Convocation as any

of the others. Why then was it not in this copy? Why had it disappeared from among the Acts of this Convocation? The reason is well known; viz, *because it was rejected by the Crown.* Hence it is evident that the date of this MS. is *subsequent* to the reference of these Articles to the Queen, and the presence of the 12th Article in such a document, (from which the 15th Article, as being disapproved by the Crown, was excluded,) is strong evidence in its favour, that there was no such reason for *its* exclusion,—that, in truth, *the Crown did not reject it.*

In fact, however, an examination of the Article itself would explain all the difficulties which have been started concerning it, even if they were all true, which we have seen they are not.

First, we must observe that this Article is not the enactment of a *new* law; but only the *declaration* of one already existing. It is, in fact, only an *explanatory* Article, “*Whereas some ambiguity and doubt has arisen . . . It is now by the said Archbishop and Bishops expounded and resolved.*”

It had been pronounced by the Church in her “Articles of Religion,” (as we have seen above,) that the sacraments were *only* to be administered by men Episcopally Ordained; but partly from the inertia of long-established custom, partly from the retention of an ambiguously worded Rubric, some were perplexed with doubts as to whether this general decision of the Church applied to the

individual and special case of Private Baptism to be administered in circumstances of extremity. The Article, therefore, as its own words express, was merely *explanatory*, and was enacted to set these temporary doubts at rest, by declaring that the law for the administration of sacraments, as propounded in "The Articles of Religion," did extend even to this extreme case; and surely it might well be thought sufficient for such an *explanatory* Article, *to publish it, immediately, "in writing" in every parish church in every diocese,*—which was the mode for its circulation ordained by the Article itself,—and of which there is not a shadow of proof that it was omitted to be done.

Again, though we have seen that there is no reason whatever for supposing that the Queen's sanction was not given to this 12th Article, still, putting aside the binding nature of a synodal decision, *in foro conscientiæ*, though destitute of any lay sanction, however exalted,—still, I say, the Article itself proclaims its own *civil* authority,—“Forasmuch as by the Book of Common Prayer, *allowed by statute, the Bishop of the diocese* is to resolve and expound all such doubts as shall arise concerning the manner how to understand, do, and execute the things contained in the said book; it is now *by the said Archbishop, and Bishops, expounded and resolved, and every of them doth expound and resolve:*” so that, beside the *spiritual* authority which every orthodox theologian must recognise in this

Article, *whether confirmed by the Crown or not*, it has also a *civil* authority given to it by "Statute," and rendering it unnecessary, *in point of law*, for it to receive any further civil sanction, even if (which we have seen above is by no means to be concluded) such sanction were not received by it, together with thirteen other Articles of that Convocation.

In very truth, the Article, if duly examined, will be seen to be *a unanimous synodical determination of a doubt, by the successors of the Apostles in the province of Canterbury; and a command from them, in their synodical capacity, to the same successors of the Apostles, in their character of individual Bishops, to publish this exposition of the said doubt in their several dioceses; together with a claim of civil authority, given to them by the Statute Law of England, to enforce obedience to their decision.* And, while all those who consider the matter in a theological point of view will scarcely fail to perceive an analogy to the Synod at Jerusalem (Acts xv.), no catholic-minded Christian will dare to call in question the authority of such *synodical decree*; and the mere *establishment man* must recognise it as obligatory, even upon the defective theory which he holds, *as having the sanction of the law**.

Thus far for the *authenticity* and *authority* of this Article, which I contend to be unimpeachable; but as some have sought to invalidate its testimony against lay baptism, by a reference to the proceed-

* Compare Acts xvi. 4, 5.

ings of the Hampton Court Conference, we must turn our attention, for a moment, to those proceedings, before we advance any further with the Article itself.

It is well known that upon the accession of James the First to the throne of England, the King, being anxious to heal the divisions which he found in our Church, (probably thinking them greater than they really were, and not improbably recognising a force and truthfulness in some of the complaints of the Puritan divines, from the peculiar circumstances of his own education,) assembled several of the Bishops and other clergy to a conference before his Majesty in person, at his palace at Hampton. This was in the year 1603, twenty-eight years after the enactment of the above Article.

The ambiguous Rubric, which the Article of 1575 was intended to expound, had still been left unaltered; and, notwithstanding the exposition given by that Article, and the inhibition which accompanied it, it is not improbable that the practice was by some schismatically continued. Hence it was one of the great complaints against the Book of Common Prayer that it permitted, if not encouraged, baptism by midwives and other persons not in Holy Orders; and though, as we have seen, the Church had synodically inhibited it, it is not improbable that some of the present Bishops did not discourage it *with that hearty good-will* with which

their opponents would have wished it to be discouraged; for while, in obedience to the Church's decision, it was their Lordships' duty to forbid the practice, still many of them did not hold, as it was contended by the objectors at the Conference, that the rite was absolutely *invalid*.

An account of the dispute upon this point, I extract from "The Sum and Substance of the Conference which it pleased his Excellent Majestie to have with the Lords Bishops, and others of his Clergie (at which the most of the Lords of the Councell were present) in his Majestie's Privy Chamber at Hampton Court, January 14, 1603, contracted by William Barlow, Doctor of Divinity, and Dean of Chester. Whereunto are added some copies (scattered abroad) unsavory and untrue."—*Lond.* 1604. *Reprinted* 1638.

"In the third place, the Lord Archbishop* proceeded to speak of *private baptism*, showing His Majestie that the administration of baptism *by women and lay persons was not allowed in the practice of the Church, but enquired of by the Bishoppes in their visitations, and censured, neither doe the wordes in the booke inferre any such meaning*,—whereunto the King excepted, urging and pressing the wordes of the booke, that they could not but intend a permission and suffering of women and private persons to baptize. Here the Bishoppe of *Worcester*† said that, indeed the wordes were doubtful, and might

* Whitgift.

† Babington.

bee pressed to that meaning; but yet it seemed *by the contrarie practice of our Church (censuring women in this case,) that the compilers of the booke did not so intend them*, and yet propounded them ambiguously, because otherwise perhaps the booke would not have then passed in Parliament (and for this conjecture, as I remember, he cited the testimony of my Lord Archbishop of *York**). Whereunto the Bishoppe of *London*† replied, that those learned and reverend men, who framed the Booke of Common Prayer, intended not by ambiguous terms to deceive any, but did indeede by those wordes intend a permission of private persons to baptize, *in case of necessity*, whereof their letters were witnesses, some partes whereof he then read, and withal declared that the same was agreeable to the practice of the ancient Church; urging to that purpose, both *Actes* 2, where 3000 were baptized in one day, for which the Apostles alone to do was impossible, at least, improbable; and besides the Apostles, there were then no Bishoppes or priests. And also the authoritie of *Tertullian*, and Saint *Ambrose*, in the fourth to the *Ephesians*, plaine in that point; laying also open the absurdities and impieties of their opinion who thinke there is no necessitie of baptisme, which worde *necessitie* he so pressed, not as if God without baptisme could not save the child; but the case put, that the state of the infant, dying unbaptized, being uncertaine, and to God only knowne,

* Hutton.

† Bancroft.

but if it dye baptized, there is an evident assurance that it is saved, who is hee, that having any religion in him, would not speedily, by any meanes, procure his child to be baptized, and rather ground his action upon Christ's promise, than his omission thereof upon God's secret judgement? His Majestie replied: first to that place of the Actes, that it was an acte extraordinary, neither is it sound reasoning from thinges done before a Church be settled and grounded, unto those which are to be performed in a Church stablished and flourishing. That hee also maintained the necessitie of baptisme, and always thought that place of St. John 'Nisi quis renatus fuerit ex aqua, &c.,' was ment of the sacrament of baptisme; and that he had so deferred it against some ministers in *Scotland*; and it may seem strange to you, my Lords, saith his Majestie, that I, who now think that you in *England* give too much to baptisme, did fourteen monthes ago, in *Scotland*, argue with my divines there, for ascribing too little to that holy sacrament; insomuch, that a pert minister asked me if I thought baptisme so necessary, that if it were omitted, the child should be damned? I answered him, no; but if you being called to baptize a child, though privately, should refuse to come, I think you shall be damned.

“ But this *necessitie* of baptisme, his Majestie so expounded, that it was necessary to be had where it might lawfully be had, *id est*, ministered by lawful ministers, by whom alone, and by no private

person, he thought it might, in any case, be administered ; and yet utterly disliked all rebaptization, although either women or laikes had baptized.

“ Here the Bishop of *Winchester** spoke very learnedly and earnestly on that point, affirming that the denying of private persons in cases of necessitie to baptize, was to crosse all antiquitie, seeing that it had been the ancient and common practice of the Church, when ministers at such times could not be got ; and that it was also a rule agreed upon among divines, that the minister is not of the *essence* of the sacrament. His Majestie answered, though he be not of the *essence* of the sacrament, yet is he of the essence of the right and lawful minister of the sacrament, taking for his ground the commission of Christ to his disciples, (Matthew xxviii. 20), ‘ Go preach and baptize.’

“ The issue was a consultation whether into the Rubrike of private baptisme, which leaves it indifferent to all, laikes or clergie, the wordes *curate or lawful minister*, might not be inserted ? which was not so much stuck at by the Bishops.”—BARLOW, p. 14.

Now concerning these proceedings, I must remark they may be valuable as a *testimony* ; but as an *authority*, they are of no value at all. A “ *Conference*” is not a “ *Synod* ;” and its conclusions, at the utmost, can be a *mere expression of opinion*. It is very true that the opinions here set forth are, for the most

* Bilson.

part, the opinions of *Bishops*, and therefore worthy of all respect; but then they are the opinions of *individual* Bishops, and that (I think it will be granted) more in their *individual*, than in their episcopal and apostolic character. Be this, however, as it may, it certainly will not be contended that the decision of this "Conference," whatsoever that decision might be, could have anything like an equal importance, weight, and authority with the solemn synodical decision above considered; and if the *resultive decision* could not have that weight, though to that decision the Bishops who were present agreed, surely it will not be contended that an equal deference is due to the testimony and opinions of the *individual* prelates assembled.

Let us, however, examine briefly what this testimony was. First, then, we have the testimony of Archbishop Whitgift himself to a matter of fact, "*That the administration of baptism by women and lay persons was not allowed in the practice of the Church, but inquired of by the Bishoppes in their visitations, and censured.*" Surely, here is a valuable testimony to the practice and doctrine of the Church, and a testimony it is, not the less forcible because indirect, to the authority and promulgation of the Article of 1575, which we have considered above; and when we remember that the Article was enacted to explain a Rubric which in itself (as the king contended and Bishop Babington admitted,) was certainly ambiguous, and then turn our atten-

tion to Whitgift's further testimony, "*Neither doe the wordes in the booke inferre any such meaning,*" and call to mind, at the same time, the fact that when the Article was agreed upon Whitgift was the *Prolocutor* of the Lower House,—and also that his own copy of the canons of that Convocation is extant, endorsed with his own hand, and containing this article among the rest—surely we shall not fail to perceive a coincidence which is singularly striking,—a mutual relation of circumstances and testimony which is of no slight importance in the determination of the question before us.

Bishop Babington gave testimony as to the meaning of the Rubric, and the practice of the Church, coincident with the testimony of Whitgift, and quoted Archbishop Hutton in support of it.

Bishop Bancroft contended that the Rubric was not intended "*by those who framed the Booke of Common Prayer,*" to be ambiguous, but that it was intended by them to permit private baptism by lay persons, *in cases of necessity*, "*whereof their letters were witnesses,*" some *partes* whereof he then read; and he defended the practice with arguments of not so great weight but that I may leave "his Majestie" to answer them, just only reminding the disputants (in the words of Mr. Lawrence), that "Bishops, in our day, manage to *Confirm* many hundred persons in a few hours" (and I may add that in *our* day, also, the Bishops in India *Baptize* many hundred persons in the same space of time), and throwing out for

their re-consideration the question whether, as Bishop Bancroft asserts, there were “no priests” to assist the Apostles, *while the seventy elders were present*.

Let it, however, be remarked,—for this is more to our purpose,—that in this testimony of Bishop Bancroft there is not one word, either expressed or implied, concerning the XIIth Article of the Convocation of 1575, or concerning the *then* custom of the Church. He only defends the persons “*who framed the Book of Common Prayer*,” from what he considered an imputation of duplicity; by showing that their intention (or that, at any rate, of some of them,—for be it remarked, that he appeals to no *public decision*, but only to *private letters*,) was to permit lay baptism in cases of necessity: and then states his own opinion that they were right. There is no evidence, that I know of, that the letters which Bancroft refers to are not those of the compilers of King Edward’s first Prayer Book, by whom the Rubric may be said to have been introduced, and who are well known at that time to have been favourable to this practice; but even if these letters bear testimony to the sentiments of our Reformers at *the time of the publication of Edward’s second Prayer Book*, or of its republication under Elizabeth, they do not invalidate that solemn decision of Convocation which was subsequently made upon the subject.

Bishop Bilson does not give any evidence concerning the custom or doctrine of the Church at

that time: he is stated only to have delivered his opinion that lay baptism, in cases of necessity, was the practice of the *ancient* Church, and to have "spoken very learnedly and earnestly" against *rebaptization* in such a case. The result of the conference upon the subject was the consent of the Bishops, that, to take away all appearance of ambiguity, the old Rubric should be altered, and "*the wordes curate or lawful minister inserted;*" and this alteration, we know, was made and confirmed by Convocation. So that, after all, the Hampton Court Conference, instead of yielding testimony in favour of lay baptism, as it is often asserted to do, does, we see, when duly examined, furnish the most convincing evidence that it was contrary to the doctrine and custom of the Church*.

I do not mean to contend that all those among the Bishops who gave testimony at this "Conference" that the Church of England forbade the practice of lay baptism, and consented to the alteration of the Rubric to make her prohibition more evident—I do not mean to contend that they all considered such baptism *invalid*; for this they certainly did not: but strenuously contended against the iteration of the rite, in such cases; as did even King James him-

* Bishop Gibson writes thus of the result of this conference. "Accordingly in the Common Prayer which was set forth the same year, the alterations were printed in the Rubric as I have noted them before; and other expressions in other parts of the service which seemed before to admit of lay baptism, were so turned *as expressly to exclude it.*"—*Codex*, i. 369.

self. Arguments in favour of its validity—except that of *custom* and *antiquity*,—they had none that deserved the name: and it has been truly observed by Bishop Jeremy Taylor, that “when an opinion is offered only by the hand of custom, it is commonly a sign of a bad cause, and that there is nothing else to be said for it*.” Yet had custom, long established, such a hold upon the minds of those good and great men, that they did not perceive the inconsistency into which they were drawn. Thus Whitgift, in his controversies with Cartwright, long before this “Conference,” and previously, too, to the passing of the canon of 1575, bore witness to the custom and doctrine of the Church against lay baptism, but yet defended the practice. In his *Answer to the Admonition to Parliament*, we find the following:—

Adm. “The third general reason is this, *Then* by ministers only: *Now* by midwives and deacons equally.

Ans. “That then the Sacraments were ministered only by ministers you alledge the 28th of Matthew, which place is answered before. Likewise 1 Corinthians 4, ‘Let a man so thinke of us as of the ministers of Christ, and disposers of the misteries of God.’ Here is not one word for your purpose, except you take misteries for sacramentes, which if you do, you are much deceived, for by the word misteries here, he understandeth the word of God,

* *Ductor. Dub.*, p. 639.

and the gospell of Christ, as all learned writers do interpret it. We read in the eight of the Acts that Philip being a deacon, did baptize; we read also that Moses' wife did circumcise. But where doth this Church of England allow any woman to baptize, or deacon to celebrate the Lord's Supper; and if it did, the dignitie of the Sacramentes doe not depende upon the man, be he minister or not minister, be he good or evil.'—(WHITGIFT's *Answer to 'The Admonition to Parliament,'* Ed. 1573, p. 185.)

Again: "You say women that may not speak in the congregation, may yet in tyme of necessitie minister the Sacramente of Baptisme, and that in a private house, and to prove the women may not speak in the congregation, you quote 1 Corinthians 14, 1 Timothy 2. Whereas you should rather have proved that women may not in time of necessitie minister baptisme, for that is the question and not the other. But hereof I have also spoken my opinion before: women may speak in the congregation if necessary occasion doe require, as Maister Calvin teacheth in his *Institutions*, ch. 13, sect. 32. (*Answer to Admonition.*)

Again: from his '*Defence of Answer, &c.*' (I.C.) "But some will say that the baptisme of women is not commanded by law: if it be not, why do you suffer it, and wherefore are the children so baptized accordingly? Common experience teacheth that it is used almost in all places, and few speak against it: and this I am sure of, that when it was put in the

booke, that was the meaning of the most part that were then present, and so it was to be understood, as common practice without controlement doth plainly declare.”—(Whitgift.) “ All these are but conjectures. Diverse things be suffered, and in many places used without controlement, which notwithstanding by no lawe be commanded. What the meaning was of those who penned the book I know not, neither as I thinke do you. And surely for common practice I can say little, but for mine own experience, this I dare affirm, that I have not known one child so baptized in places where I have had to do, no not since the beginning of the Queen’s Majestie’s reigne. I speak not of the thing itself, but only of your conjectures: I think if the circumstances of the book be well considered, it will appear that the meaning is, that private baptisme is rather to be ministered by some minister (which in the time of necessity may soonest be come by) than by any woman. But in this point I submit my judgement to such as better know the meaning of the book (being penners thereof,) than I do!”*

From which extracts we cannot fail to perceive that the Church discouraged lay-baptism in ‘*cases of necessity*,’ and that she was understood to do so by one of her greatest divines, *before* the Convocation of 1575 ; but that, to say the least, it was not supposed by the very person who testified this, that such baptism was *invalid*. It is very singular to observe

* See Appendix, Note K.

the weakness of the arguments put forth, as above, by this great man against his opponent upon this subject. He makes the broadest statements—very often perfectly false—such as that “*All antiquity is on his side*”—but his *reasoning* is very poor. He could reason well enough on *other* matters—Why not on this?—Why, but because, as it appears to me and those who think with me, he was in the wrong. The same remark is applicable to Hooker’s reasoning upon this matter. He seems often to have lost his power and acuteness when he approached even the *confines* of the subject. I will give a single instance.

It is contended by those who doubt the validity of lay-baptism, that if Christ gave the commission to the Clergy only, (as almost all admit,) the rite is no sacrament if administered by laymen, being no longer Christ’s *perfect* institution.

This argument was most fairly stated by Cartwright (though with that coarseness and want of feeling which characterized almost all the Puritanical writers*). He is arguing in favor of a strange notion, which it is well-known that the Puritans of that day held, that Private Baptism, not in the congregation, is invalid. His argument applies, however, much better to the case before us.

* Observable also in Travers. Though both these men seem distinguished by Christian mildness and refinement, when compared with many others of their school. It is, however, but fair to state that Hooker, in quoting Cartwright, makes the passage appear in worse taste than it really ought, by giving to it an *abruptness* which it has not in the original.

“ The substance of the sacrament doth chiefly depend on the institution of God, which is the form, and as it were the life, of the sacrament ; therefore if the whole institution of Christ be not kept it is no sacrament,” from which institution “ we ought not to swerve, although we know that infants should be assuredly damned without baptism.”

In answer to which occurs, perhaps, one of the most touching passages in the works which remain to us of his immortal opponent—a passage in which Hooker’s tenderness of heart and delicacy of feeling appear more strongly than in any other with which I am acquainted, in which (and no one who is familiar with the writings and character of that saintly man can feel anything but admiration at the circumstance) he seems to lose sight of the truth of the objector’s proposition, in the feelings which are excited by the manner in which it is stated:—

“ O Sir, you that would spurn thus at such, as in case of so dreadful extremity, should be prostrate before your feet; you that would turn away your face from them at the hour of their most need; you that would dam up your ears, and harden your heart as iron against the irresistible cries of suppliants calling upon you for mercy, with terms of such invocation as that most dreadful perplexity might minister, if God, by miracle, did open the mouths of infants to express their supposed necessity, should first imagine yourself in their case, and them in yours. This done, let their supplications proceed

out of your mouth, and your answer out of theirs; would you then contentedly hear, 'My son, the rites and solemnities of baptism must be kept: we may not do ill that good may come of it; neither are souls to be delivered from eternal death and condemnation, by breaking orders which Christ has set?' Would you, in their case, yourself be shaken off by these answers, and not rather embrace, enclosed with both your arms, a sentence which is now no Gospel unto you, 'I will have mercy, and not sacrifice'?"—(*Eccl. Pol.*, v. LXI.)

However much this reply may be admired for the feeling displayed, no one, I think, will venture to affirm that it is a satisfactory answer to Cartwright's *argument*. The position which Cartwright maintained was in other words simply this, *that all the virtue which the sacraments possess as instruments of salvation, they possess not of themselves, but derive entirely from Christ's institution, therefore if that institution be broken, they are no longer SACRAMENTS (in the sense the word is now used by us,) being no longer what Christ instituted, and that, therefore, their salvatory principle is gone.* The reply of Hooker, as far as argument goes, is merely *begging the question*. He takes for granted the saving principle would remain, though Christ's institution were broken, and that, therefore, to refuse this imperfect baptism would be to refuse salvation, (or, as other parts of his works would show that he means, *the certainty of salvation*); and although he argues justly in the fol-

lowing section that the particular point for which Cartwright is contending—*publicity* of baptism—is not a necessary part of Christ's institution, still does the truth of his opponent's main position remain untouched: and it is that only which affects our present subject.

Let it not, however, be supposed by any, that I have brought forward the above reply as being the *substance* of Hooker's defence of his opinion. He writes forcibly upon *all* subjects, and upon this among the rest. But while on other matters, (in his well-authenticated books,) he seems never to be taken off his guard, on *this* subject he more than once is weak, and his opponents have the best of the argument. However, the opinions of Hooker upon this subject are too well known to leave any necessity that I should dwell upon them at length. As the opinions of *Hooker*, they certainly demand no slight degree of deference—a deference which, it is to be hoped, *as such* they will ever receive. But, after all, *his* opinion, though worthy of great estimation, is only, be it remarked, the opinion of an individual, and is by no means to be measured with the solemn synodical decisions which I have alluded to above. To him, however, on one point, I shall return presently.

The next synodical act, bearing upon this important point of lay baptism, was the revision of the book of Common Prayer by the Convocation, which succeeded immediately the Savoy Conference

in the year 1661. The Prayer Book which was the result of this revision is that which we now use, (and which, being confirmed by Act of Parliament is, let it be remembered, part of the law of the land.) Now I think we shall see, upon considering the Office for Private Baptisms, in this our present Prayer Book, and comparing it with that in other Service-Books which preceded it, that, to say the least, it makes nothing against the point for which I am now contending. A different and contrary conclusion, however, has been drawn from it; and as the argument was well stated by Sir John Nicholl, and that, with much greater fairness than is displayed in many other parts of his Judgment, I will give it at length in his own words.

“The Rubric itself, as published by King James, leads to the very same conclusion: certain questions are directed to be asked for the purpose of ascertaining whether the child has been already baptized; and the questions run in this order and form. If the child were baptized by any other lawful minister, then the minister of the parish where the child was born or christened shall examine and try whether the child be lawfully baptized or no. In which case, if those that bring any child to the church do answer that the same child is already baptized, then shall the minister examine them further, saying, ‘By whom was this child baptized? Who was present when this child was baptized? Because some things essential to this sacrament

may happen to be omitted through fear or haste in such times of extremity, therefore I demand further of you, With what matter was this child baptized? With what words was this child baptized? And if the minister shall find by the answers of such as bring the child that all things were done as they ought to be, then shall not he christen the child again, but shall receive him as one of the flock of true Christian people.'

“ Now it by no means follows, from asking, ‘ by whom was this child baptized,’ or ‘ who was present when this child was baptized,’ that the person who administers the ceremony is essential to the validity of the baptism, or that those inquiries are made for the purpose of ascertaining whether the baptism be valid or not ; for it is obvious, that it is not essential who were the persons present. Why, then, is it to be inferred as essential, who was the person by whom the ceremony was performed ? On the other hand, it may be extremely proper and convenient to inquire into both those circumstances, for the purpose of enabling the minister more satisfactorily to ascertain whether the essentials themselves have been performed ; for if the office has been performed by a lawful minister, then there is less suspicion of irregularity or defect in the performance, and a less minute inquiry may satisfy the minister that the baptism has been properly administered. Again, if the persons present at the baptism were respectable, intelligent persons,

or persons who are at the time attending, and who therefore can be further questioned by the minister in respect to the essentials of baptism, it may be material and proper for that reason to inquire who were the persons that were present. Hence it appears that these questions being introduced does not establish that a minister was essential to the administration of the rite; but more especially, when we find this preamble to the third and fourth questions interposed in the middle of the queries, 'because some things *essential* to this sacrament,' (for so I think is the natural mode of reading it, and not in the way in which the emphasis was laid by the counsel, 'because *some* things essential to this sacrament') 'may happen to be omitted,' (for if anything essential was omitted, it might be proper to consider the baptism as null;) 'therefore I demand of you, With what matter was this child baptized? With what words was this child baptized?'

"If any doubt could be made upon what is meant by the Rubric in this respect, it would be cleared up most satisfactorily by adverting to the old law upon the subject; and by the old law (as has been already stated,) it was the use of the water and the invocation of the Holy Trinity that was essential to the baptism; those, as Lyndwood has explained, were the *duo necessaria*.

"Again, if everything has been 'done as it ought to be.' What is meant by the phrase 'done

as it ought to be' is explained by adverting to the commentary of Lyndwood; for he has stated, in his gloss, the terms '*rite ministratus*,' '*legitime factum*,' and '*forma debita*,' to mean the use of water and the form of words: this can therefore leave no doubt what was the meaning of the Rubric, thus illustrated, as it is by reference to the ancient law and to Lyndwood.

"But the concluding part of the Rubric is equally decisive upon the subject; for it is, 'If they which bring the infant to the Church do make such uncertain answers to the priest's questions, that it cannot appear that the child was baptized with water, in the name of the Father, and of the Son, and of the Holy Ghost, (which are essential parts of baptism,) then let the priest baptize it in the form before appointed for public baptism of infants, saving that at the dipping of the child in the font, he shall use this form of words, 'If thou art not already baptized, I baptize thee in the name of the Father, and of the Son, and of the Holy Ghost.' If there were a doubt, then, whether the child was baptized with water, and the invocation (which are here expressly declared to be essential parts of baptism,) then the child was to be conditionally and hypothetically rebaptized, the Church being so extremely anxious to avoid iteration. But, supposing a doubt arose whether the former baptism had been administered by a lawful minister, was the child in that case to be rebaptized, even

hypothetically? Such a doubt might very easily happen: the persons present might not be able to answer who the person was that had baptized, or they might not be able to answer whether the person who had administered the baptism, was or was not a lawful minister; he might have been an entire stranger to them; and yet, if that fact appears doubtful, here are no directions in the Rubric for a conditional rebaptization. Hence, it is obvious, that the person performing the baptism was not essential, by the Rubric; and in this respect the Rubric exactly conformed to the old law, for the baptism remained valid, and was not to be repeated; and even to what King James said at the conference just before this Rubric was approved, that he utterly disliked all rebaptization.

“After the Restoration, the Rubric was revised, and was confirmed by Parliament, and no alteration was made, except in the title of the office: for unless I have been misled by a book of some authority, (not having seen the Prayer Book of the time of King James,) the title of King James’s office for the administration of private baptism was this, ‘Of them that be baptized in private houses in time of necessity by the minister of the parish, or other lawful minister that can be procured.’ Now the title of the office stands thus, ‘Of the ministration of private baptism of children in houses;’ there is an omission, therefore, in the title, of the words ‘lawful minister,’ or anything referring to

them. This alteration in the title, if it meant anything as applied to the present question, seems pretty strongly to infer that the title was considered as, in too precise a manner, requiring both the existence of the necessity and the intervention of a lawful minister; and the title of the office was therefore left in more general terms—‘Of the administration of private baptism in houses’ simply; and it was only in the directory part, as in marriages, that it was set forth, let the ‘lawful minister’ say, so and so; inferring that lawful ministers were the persons regularly to perform the office, and that it was considered a part of their duty. So the matter still remains.”—Sir J. NICHOLL’S *Judgment*, 26—30.

This is Sir John Nicholl’s reasoning from the Rubric; and I believe that he has fairly stated an argument which is very often brought forward on that side of the question. I do not suppose that this reasoning would deceive many, even if I left it unanswered, for in more points than one it contradicts itself. However, as I am anxious to find out the truth upon the subject, and not merely to point out Sir John Nicholl’s fallacies, I shall proceed to an examination and comparison of the Rubric in each of our Service-Books; after mentioning a circumstance of which Sir John Nicholl seems not to have been aware, but which would greatly have strengthened his argument:—that the observation which divides the inquiries at the begin-

ning of the service, ' Because some things essential to this sacrament,' &c. &c. and the declaration at the end, that ' water and the name of the Trinity are *essential parts of baptism,*' *first* appear in the Service Book of James.

I must now request my readers to examine, carefully, the following comparison.

The first column contains those portions of the Office which bear upon this subject in the first three Prayer Books; the second column contains the *alterations only* which appear in the Prayer Book of James; and the third column bears to the second column the same relation which the second bears to the first.

THE FOLLOWING COMPARISON MARKS THE CHANGES IN THE RUBRIC AS THEY TOOK PLACE.

<i>King Edward's Prayer Books, 1549 and 1552*. And Queen Elizabeth's Prayer Book†.</i>	<i>King James I.'s Prayer Book‡.</i>	<i>King Charles II.'s Prayer Book, viz., that now in use.</i>
Of them that be baptized in private houses, in time of necessity.	Of them that are to be baptized in private houses in time of necessity by the minister of the parish, or any other lawful minister that can be procured.	The ministration of private baptism of children in houses.
The pastors and curates, &c., &c.	The pastors and curates, &c., &c.	The curates of every parish shall often, &c., &c.
And also they shall warn them that without great cause and necessity, they baptize not children at home	And also they shall warn them that without great cause they procure not their children to be baptized at	And also they shall warn them that without like great cause and necessity, &c., &c.

* From CARDWELL'S *Two Books of Edward Compared*.

† From a Latin copy in the possession of Mr. Jeans, Exeter. (I have been unable to meet with an English copy). This is dated 1574, and was published "*cum privilegio Regiæ Majestatis*."

‡ From a copy in the possession of Mr. Jeans, Exeter, dated 1628; and GIBSON'S *Codex*.

*King Edward's Prayer Books,
1549 and 1552. And Queen
Elizabeth's Prayer Book.*

in their houses. And when great need shall compel them so to do, that then they minister it on this fashion :

First, let them that be present call on God for His grace, and say the Lord's Prayer if the time will suffer. And then one of them shall name the child, and dip him in the water, or pour water upon him, saying these words :

N. I baptize thee, &c., &c.

King James I.'s Prayer Book.

home in their houses. And when great need shall compel them so to do, then the baptism shall be administered on this fashion :

First, let the lawful minister and them that are present call upon God for His grace, and say the Lord's Prayer if time will suffer ; and then the child being named by some one that is present, the said lawful minister shall dip it in the water, or pour water upon it, saying these words :

N. I baptize thee, &c., &c.

*King Charles II.'s Prayer Book,
viz., that now in use.*

First, let the minister of the parish, (or in his absence, any other lawful minister that can be procured), with them that are present, call upon God and say the Lord's Prayer, and so many of the Collects appointed to be said before in the form of public baptism as the time and present exigence will suffer.

And then the child, &c., &c.

N. I baptize thee, &c., &c.

Then all kneeling down, the minister shall say,

We yield thee hearty thanks, &c.,
&c. Amen.

And let them not doubt . . .
 . . . yet nevertheless . . .
 . . . to the intent that if the
 minister of the same parish . . .
 . . . by him privately before
 used: in which case he shall say
 thus:

I certify you that according to the
 due and prescribed order of the
 Church *at such a time* and *at such*
a place, before diverse witnesses, I
 baptized this child. But if the child
 were baptized by any other lawful
 minister, then &c., &c.

And let them not doubt, &c., &c., . . .
 . . . But . . . it is
 expedient that he be brought into
 the church, to the intent that if
 the priest or minister of the same
 parish did himself baptize that
 child, the congregation may be
 certified of the true form of bap-
 tism by him before used; or if the
 child was baptized by any other
 lawful minister, then the minister
 of the parish where the child was
 born or christened shall examine
 and try whether the child be law-
 fully baptized or no. In which
 case if those that bring any child
 to the church do answer that the

And let them not doubt but that the
 child so baptized is lawfully and
 sufficiently baptized, and ought not
 to be baptized again in the church;
 but nevertheless if the child, which
 is after this sort baptized, do after-
 wards live, it is expedient that he
 be brought into the church, to the
 intent the priest may examine and
 try whether the child be lawfully
 baptized or no. And if those that
 bring the child to the church do
 answer that he is already baptized,
 then shall the priest examine them
 further:

<i>King Edward's Prayer Books, 1549 and 1552. And Queen Elizabeth's Prayer Book.</i>	<i>King James I.'s Prayer Book.</i>	<i>King Charles II.'s Prayer Book, viz., that now in use.</i>
By whom the child was baptized? Who was present when the child was baptized? Whether they called upon God for grace and succour in that neces- sity? With what thing and matter did they baptize the child? With what words the child was bap- tized? Whether they think the child to be lawfully and perfectly baptized?	<p>—</p> <p>same child is already baptized, then shall the minister examine them further, saying, By whom was this child baptized? Who was present when this child was baptized? And because some things essential to this sacrament may happen to be omitted through feare or haste in such times of extremity, therefore I demand further of you, With what matter was this child bap- tized? With what words was this child bap- tized? Whether ye think, &c., &c.</p>	<p>—</p> <p>By whom, &c.? Who was present, &c.? Because some things essential to this sacrament, &c. With what matter, &c.? With what words, &c.?</p>

<p>And if the minister shall prove by the answers of such as brought the child that all things were done as they ought to be, then shall not he christen the child again, but shall receive him as one of the flock of the true Christian people, saying thus :</p>	<p>And if the minister shall find, &c.</p>	<p>And if the minister shall find, &c.</p>
<p>I certify you in this case ye have done well, and according unto due order, concerning the baptizing of this child, &c., &c.</p>	<p>I certify you that, in this case, all is well done, and according unto due order, concerning the baptizing of this child, &c., &c.</p>	<p>I certify you that, in this case, all, &c.</p>

AND THE RUBRIC ABOUT CONDITIONAL BAPTISM, AT THE END OF THE OFFICE, RUNS THUS :

<p><i>King Edward's Prayer Books, 1549 and 1552. And Queen Elizabeth's Prayer Book.</i></p>	<p><i>King James I.'s Prayer Book.</i></p>	<p><i>King Charles II.'s Prayer Book, viz., that now in use.</i></p>
<p>But if they which bring the infant to the church do make an uncertain answer to the priest's questions, and say that they cannot tell what they thought, did, or said, in that great fear and trouble of mind ; (as oftentimes it chanceth), then let the priest baptize him in form above written concerning public baptism, saving that at the dipping of the child in the font, he shall use this form of words :</p>	<p>But if they which bring the infant to the church do make such uncertain answers as that it cannot appear that the child was baptized with water, in the name of the Father, and of the Son, and of the Holy Ghost, (which are essential parts of baptism), then let the priest baptize it in the form before appointed for public baptism of infants ; saving that, &c., &c.</p>	<p>But if they which bring the infant, &c.</p>
<p>If thou be not baptized already, &c.</p>	<p>If thou art not already baptized, &c.</p>	<p>If thou art not already baptized, &c.</p>

Between the two Service Books of Edward and that of Elizabeth I can discern no difference in the Office with reference to this subject. None is marked by Dr. Cardwell in the former—I have been unable to detect any in the latter, from the very cursory view which I have obtained of its Latin version*. That some change of *opinion* and *feeling* on the subject had taken place is evident from the testimony of Whitgift; from which also we may conclude, if his testimony is worth anything, that this Office, as reissued under Elizabeth (curious though the assertion appears) was not intended to permit Lay Baptism†. Bishop Taylor goes further, and speaks of an actual alteration in the Rubric. He says, “When in the First Liturgy of Edward VI., a Rubric was inserted, permitting Midwives to baptize in cases of extreme danger, it was left out in the Second Liturgies‡.” But to what he refers I own I am at a loss to determine. We have seen, however, that in the Convocation of 1575, the very year after this Latin version of Elizabeth’s Prayer Book was published, an important explanatory Article was passed, *forbidding* Lay Baptism altogether. A few years later King James’ Prayer Book appeared, containing most important alterations, not only in form but in spirit, which I will now proceed to examine.

The first of the alterations to be noticed, is in

* See Appendix, Note L.

† See pp. 76, 77.

‡ Office Ministerial, sect. iv. 131.

the *title* of the Office. A reference to the above comparison of the different Service Books, will show that in the three former Books the title of the Office was perfectly *general*; for anything there expressed to the contrary, the Office might be used by *any one*. In James' Prayer Book this *generality* disappears, and the use of the office is *limited*, by the title, to "the *Minister* of the parish, or any other *lawful Minister* that can be procured."

Again, in the second clause of the First Rubric, in the three former Prayer Books, the words seem to convey an indirect permission to laymen to baptize. "And also they shall warn, &c. . . . *they baptize* not . . . then *they minister it* on this fashion." But the words in this clause, in James' Prayer Book, do not *necessarily* contain any such permission: "And also they shall warn, &c. . . . *they procure not* their children *to be baptized* . . . *the baptism shall be administered* on this fashion."

The third clause of this Rubric states "on what fashion" private baptism is to be performed, if performed at all. In the three former Prayer Books the indirect permission given to laymen, by the *second* clause, is considerably strengthened in *this*. "First, let *them that be present* call upon God for His grace, and say," &c., then *one of them* shall dip him in the water, or pour water upon him, saying, N., I baptize thee, &c." In James' Prayer Book, on the other hand, the absence, in the second clause, of any permission, direct or indirect, to laymen to

baptize, is changed, in this third clause, to an *indirect inhibition*,—for it states that when private baptism is administered at all, it is to be administered “on this fashion:” “First, let the *lawful Minister*, and them that are present, call upon God; . . . then, *the said lawful Minister* shall dip it into the water, or pour water upon it, saying, N., I baptize thee, . . . &c.”

Again, the first part of the Second Rubric, in the three former Prayer Books, proclaims that a child baptized thus, *by a layman even*, (for aught that had been expressed or implied to the contrary,) “is lawfully and sufficiently baptized, and ought not to be baptized again.” But the same words in the same Rubric in James’ Prayer Book, when taken in connexion with what had gone before, proclaim the same thing, concerning those *only* who “had been baptized *by a lawful minister*,” they contain not even the *shadow* of a declaration against the iteration of a baptism which had been performed *by a layman*.

The next division of this Second Rubric, in the three former Prayer Books, ordains that if the child, which is after this sort baptized, shall live, it shall be brought into the church, in order that “the priest *may examine and try whether the child be lawfully baptized or no*.” And the *form* of examination given is, Who administered the rite? Who was present? *Whether they called upon God for grace and succour?* With what matter did *they*

baptize the child? With what words? What is their opinion about the lawfulness and perfectness of the baptism administered? And then the Third Rubric provides that if the priest shall prove by the answers to these questions, that "all things were done as they ought to be," he shall testify the same *unto those who brought the child*. "I certify *you* that in this case *ye* have done well," &c. Thus all along admitting a possibility of lay baptism.

In the second division, however, of the Second Rubric, in James' Prayer Book, we find something very different. Here too it is provided that "if the child, which is *after this sort baptized*, do afterwards live, he shall be brought into the Church." But why?—"That if the Priest or Minister of the same parish did himself baptize that child, *the congregation* may be certified of the true form of baptism *by him before used*." But what if *the Minister of the parish* did not baptize it? Why, then, the words "*which is after this sort baptized*," when taken in connexion with the second and third clauses of the First Rubric, most evidently imply that the child brought must have been baptized by "*some other lawful Minister*," or the ensuing service of "reception" or "completion," can have no reference to *him*,—and accordingly the Rubric proceeds, "or if the child was baptized *by any other lawful Minister*, then the minister of the parish shall examine and try whether the child *be lawfully baptized or no*." Now how was this examination, *concerning the bap-*

tism of one who had been baptized by a lawful Minister, to be conducted? Very much as it was before conducted, but with some very significant alterations. If the persons who brought the child said he was *already baptized*, the Minister was to ask, “By whom was this child baptized?” And although this question in the former Service Books might have been *only* intended to discover whether the child had been baptized *by a member of the Catholic Church*, (in default of which, though the baptism might be acknowledged as *valid*, the service could not be proceeded with, before absolution had been obtained from the Bishop, as we shall see more plainly presently ;)—yet now it is evident, from the Rubrics which have been examined, that the question was not only intended to discover *this* fact, as in the former Prayer Books, but also to discover whether the child had been baptized *by a lawful Minister*; in which case, *alone*, was the clergyman to proceed with the service. And in this conclusion, to which, I contend, the Rubrics naturally and necessarily lead us, I am borne out by the 13th Art. of Enquiry at the Visitation of the Archdeacon of St. Alban’s, 1716.

“Is your Minister ready to baptize children in danger of death? Have the children *so baptized by him, or any other lawful Minister in his absence*, been duly brought to the church afterwards, that the congregation may be certified of their *lawful baptism*, and those parts of the Office performed which were before omitted?”

The first question, then, having ascertained that the child was baptized by a *lawful Minister*, the clergyman was then to ask, as in the former Service Books, “Who was *present* when this child was baptized?” and then, by the answer having discovered the individual who was most likely to be able to give him correct information, and being mindful of the injunction of the Rubric, that “if the child was baptized by *any other lawful Minister*, then the Minister of the parish shall *examine and try whether the child be lawfully baptized or no*,” he turned to that individual, and prefaced his “examination and trial,” by reminding him that “some things* *essential* to this sacrament may happen to be omitted through feare or haste in such times of extremity;” and then commences with the question, “*Whether they called upon God for grace and succour in that necessity?*” No; *this* question has altogether disappeared! It still might be very *proper* that they should do so; nay, it might be very *improper* that they should omit it: but though it might well be considered an *indispensable* requisite, for the due administration of the rite by “one *who taketh this honour unto himself*,” in the execution of the priestly functions†, it could not be regarded as *essential* to its performance by one who ministered it by *Christ’s commission*. This question, therefore, which

* I am quite willing to let Sir John Nicholl have his own emphasis here.

† Heb. v. 4.

was in the former Service Books, was omitted, and the enquiries which succeeded it alone retained, the question as to the *matter* being altered, so as not to indicate the fact, (which the former Prayer Books did,) that the person or persons of whom the enquiry is made did *themselves* baptize the child. And then the clergyman having found from the examination that “*all things were done as they ought to be,*” did not, as in the old Service Books, address “*those who brought the child,*”—“I certify you in this case *ye* have done well, &c.,” but proclaimed it *to the congregation* (as is shown by the Second Rubric, and also by the Visitation Article I have just quoted,)—“I certify *you* that in this case *all is well done, and according unto due order concerning the baptizing of this child.*” A proclamation which I cannot suppose that any man, in his senses, and who has read, carefully, the Rubrics, &c. &c. which precede it, will venture to affirm was intended to be made concerning one who had been baptized *by a layman**.

Let us now turn our attention to the Rubric, at the end of the Office, concerning “Conditional Baptism.” In the Prayer Books of Edward and Elizabeth, the words of this Rubric, considered by themselves, manifestly appear to have a relation to lay baptism—“If they which bring the infant to the church do make an uncertain answer to the priest’s questions, and say, that *they cannot tell what they thought, did, or said, in that great feare and trouble*

* See Appendix, Note M.

of *mind*, (as oftentimes it chanceth,) then let the priest, &c.," and we have seen that there is nothing in the preceding Rubrics to *limit* this. But the Rubric in James' Prayer Book assumes a very different character; here the manifestly implied permission of lay baptism has disappeared,—“ the “ uncertain answers” spoken of, are no longer concerning “ what *they thought, did, or said,*” but relate to “ what *was done,*” under the circumstances concerning which the enquiry was made,—and these circumstances, we have seen, are the baptism of the child by a *lawful Minister*, other than the Minister of the parish. The words “ do make an uncertain answer to the priest's questions, and say, that they cannot tell *what they thought, did, or said, &c. &c.,*” have entirely disappeared, and we find, instead of them, the words “ do make such uncertain answers as that it cannot appear that the child *was baptized* with water, in the name of the Father, the Son, and the Holy Ghost, (which are essential parts of baptism), then, &c.” We have seen that the title of the Office in James' Prayer Book points it out as the Office of Private Baptism, which is to be used by a *lawful Minister*. We have seen that the latter part of *this* Office is *only* to be used when the child has been baptized by a *lawful Minister*. We have seen that when the child has been baptized by a *lawful Minister*, other than the Minister of the parish, an “ examination” is to take place in order to ascertain whether the child were “ *lawfully* baptized” by that *lawful Minister*,—that after ascertaining that a *lawful*

Minister did baptize the child, the clergyman is further to examine some person “who was present when the child was baptized,” as to the *manner* in which that *lawful Minister* performed the rite. And we have seen it declared to the person examined, that the reason why this examination was to take place, was “because some things *essential* to this sacrament may happen to be omitted,” (viz., *by this lawful Minister*,) “through feare or haste, at such times of extremity.” When, then, *in this same office*, we find a *subsequent* Rubric, referring to *this very examination* concerning the *manner* in which the *lawful Minister* performed the rite, and purporting to be a direction to the clergyman how to act in the event of this examination being unsatisfactory—when, I say, we find such a Rubric proclaiming water and the name of the Trinity to be “*essential* parts of Baptism,” (not, be it remarked, *the* “essential parts,”) are we to conclude that this Rubric, by not mentioning him as such, implies a *denial* that a “*lawful Minister*” is an “essential part of baptism?” or is it not, rather, manifest that it neither pronounces or implies the slightest decision upon the subject, inasmuch as the question was quite foreign to its purpose, the Rubric itself having relation to the acts of such a *lawful Minister*, and of no other person?

Now from this comparison of the Office in James’ Prayer Book, with that in the Prayer Books of Edward and Elizabeth, I think my readers will allow that we fairly arrive at a conclusion concern-

ing the meaning of the Rubrics, &c. in the former, opposite to that which Sir John Nicholl has drawn. In a word, we have found *this* to be the case, that at the beginning of the reign of James I., the Church of England turned out of her Prayer Book *all* recognition of lay baptism—that she provided an office of private baptism to be used by a *lawful Minister* only—and that she commanded all her children, in the event of there being a necessity for having their offspring privately baptized, to procure them to be baptized *with this office, by such lawful Minister*.

This might, it would seem, have been thought a sufficient declaration of the Church's doctrine upon this point. After these alterations in her Office, I cannot conceive how it could still appear to any candid mind that she permitted, or in any way recognized, baptism by laymen; still, however, we know it was contended by some persons that the permission and recognition was implied in the Office itself. An observation of the changes made at the last "review," will point out on what these objections were grounded; for it was in order to meet these objections that the changes were made. Bishop Gibson, indeed, testifies that "the expressions which seemed to admit of lay baptism" in the Service Book of Elizabeth, in that of James, "*were so turned as expressly to exclude it**;" but Bishop Kennet states that, at the Restoration, "they desired that baptism may not be administered in a private

* Codex, i. 369.

place, at any time, unless *by a lawful Minister*, and accordingly,” he continues, “in *The Ministration of Private Baptism* the Rubric orders that the people, without great cause and necessity, procure not their children to be Baptized at home in their houses; and then to be done by the Minister of the parish, or in his absence by any other *lawful Minister**.” This alteration, which Bishop Kennet mentions as taking place at the last “review,” for the purpose of making the Church’s prohibition of lay baptism more clear and stringent, at first sight appears no alteration at all. If, however, we compare minutely our present Office with that in James’s Prayer Book, we shall speedily discover in what the alteration consists:—and I think my readers will be as much astonished as I was, to find that “the Official Principal of the Arches Court of Canterbury,” in order to prove that the Church of England recognises lay baptism, has drawn into his argument an alteration at the very last “review” of her Service Book, which was made by her for the avowed and expressed purpose of rendering *her prohibition of it more evident and decided*.

Now, I must beg my readers to remember that the title of this Office in the Prayer Books of Edward and Elizabeth was so worded as not to indicate any restraint as to the *administrator* of private baptism; while the Rubrics, &c. which followed it evidently implied a permission of the performance of the rite

* KENNET’S *Register*.

by laymen. The title of the Office in James's Prayer Book restricted, as we have seen, the use of that Office to a *lawful Minister*; and a Rubric in the Office itself provided that when children were baptized "at home," then it should be "administered on *this* fashion." Now although this title, when taken in connexion with the subsequent Rubric, might well have been thought a sufficiently plain indication of the Church's views. Still it might have been argued, and so it evidently was, that as the title of the Office was *particular*, and not *general*, it *limited* the meaning of the Rubric;—that as the title simply proclaimed it to be an Office which related to "them that are to be Baptized in private houses, in time of necessitie, by the Minister of the parish, or any other lawful Minister that can be procured," but did not forbid the performance of private baptism with any *other* Office, by one who was *not* a lawful minister, therefore, the Rubric itself did not forbid it, inasmuch as it could relate *only* to that Office of which it was a part.

Now this defect—the only loop-hole which had been left for the advocates of lay baptism to creep through—was removed at the last "review." The *particular* character of the title was taken away, and a *general* character was restored to it. It was no longer called an Office "*of them* that are to be Baptized in *private* houses, *in time of necessitie*, by the *Minister of the parish*, or any other lawful Minister that can be procured," but the title which was given

to it was one of *extreme generality*—every word which might be supposed to limit it was left out—every expression which could be tortured into even the *smallest* indication of a permission to act otherwise than in the manner which the Office ordains was then erased:—THE MINISTRATION OF PRIVATE BAPTISM OF CHILDREN IN HOUSES, is the general and all-comprehensive title which was then placed, and still continues, at the head of this Office of our Church;—and the words which were taken out of the old title being thrown into the Rubric, now bind (beyond all doubt and cavil,) the administration of Baptism under *all* circumstances, to a *lawful Minister* only.

One other alteration there was which is well worthy of our notice, as marking the progress of sound principles on this subject. In the examination of the persons who brought the child to church, as given in the first three Prayer Books, there was an inquiry “whether they *think* the child be lawfully and perfectly baptized;” and we cannot wonder at such a question, as well as inquiries about what they “*thought*, did, and said” at the time of the performance of a rite, which the person who baptized the child had no *commission* to execute. In James’s Prayer Book it is provided that the rite shall have been administered by one who had *commission*; and therefore nothing concerning “*thoughts*” at the time of administration appears. This question, however, as to their *opinion* of the Baptism which had been administered, somewhat

inconsistently, remained. It was expunged at the last "review,"—doubtless, as being perfectly out of place concerning a Sacrament of the Gospel administered by Christ's own commission and authority.

Thus, I think, it must be admitted that the various alterations of the Prayer Book, when fully and fairly considered, do not, *any of them*, furnish an argument against the point for which I am contending; but do, *one and all of them*, lend their weight in support of it. They were, be it remembered, the actions of the Church in Synod, assembled under the authority of her Lord, and directed, I trust and verily believe, by the influence of His Holy Spirit. As the alterations of the *Church*, then, they are to be considered, and not as the alterations of *individuals*; but it is interesting, if not instructive, to find whose hands were probably employed in preparing this finishing blow to the practice and doctrine of lay baptism in the Church of England; and to read from Bishop Kennet's Register that "Dr. William Sancroft (afterwards Archbishop of Canterbury,) was in these employments diligently useful, especially in helping to rectify the Kalendar and *Rubrics*."—p. 633.

As the object of this inquiry is to find out the doctrine of the Church, and not by any means to advocate, in opposition to it, my own private opinions, I must delay my readers for a few moments longer, before we return to the XIIth Article of 1575, in order to draw their attention to certain

measures which were undertaken by some of the Bishops upon this subject, in the year 1712.

The controversy between Mr. Lawrence, Mr. Bingham, and others, had then commenced. Bingham's *Scholastic History of Lay Baptism* had appeared in answer to Lawrence's *Lay Baptism Invalid*; but Lawrence's Second Part of *Lay Baptism Invalid*, in answer to Bingham, was not yet published,—and we know not what turn these proceedings might have taken if it *had* been published. We have already seen the effect which it produced on the opinions of a divine so truly great and learned as Dr. Waterland. I give the account of the proceedings in the words of Bishop Burnet; and those who are acquainted with his low views on all such matters, will not be surprised at his sentiments concerning the *invalidity* of lay baptism, and his inability to appreciate the supporters of the tenet :

“The Bishops thought it necessary to put a stop to this new and extravagant doctrine; so a declaration was agreed to, first against the irregularity of all baptism by persons who were not in Holy Orders; but that yet, according to the practice of the primitive Church, and the constant usage of the Church of *England*, no baptism (in or with water, in the name of the Father, Son, and Holy Ghost,) ought to be reiterated. The Archbishop of *York* at first agreed to this; so it was resolved to publish it in the name of all the Bishops of *England*; but he was prevailed on to change his mind, and

refused to sign it, pretending that this would encourage irregular baptism ; so the Archbishop of *Canterbury*, with most of the Bishops of his province, resolved to offer it to the Convocation. It was agreed to in the Upper House, the Bishop of *Rochester* only dissenting ; but when it was sent to the Lower House, they would not so much as take it into consideration, but laid it aside, thinking that it would encourage those who struck at the dignity of the priesthood*.”

I have given this account from Burnet because he was a Bishop at the time ; but as the matter is very important, I will subjoin another version of it from a Visitation Charge of Dr. Thomas Sharpe, Archdeacon of Northumberland, 1733, *which version, he states, is “ taken from papers under the hands of both Archbishops.”*

“ In the Lambeth Conference, so late as 1712, this point was still designedly kept in the same situation, and preserved entire to the determination of the Ordinary. For in that year the dispute about the validity of lay baptism running pretty high, the two Archbishops, with all the Bishops of their provinces that were in town, came unanimously to this resolution, *that lay baptism should be discouraged as much as possible.* But if the essentials had been preserved in a baptism by a lay hand, *it was not to be repeated.* But then when it was proposed that a declaration of their sentiments to this pur-

* BURNET'S *Own Times*, Ed., 1734. Vol. ii. 605.

pose should be published in order to silence or determine the debates raised upon this question, it was resolved, upon mature consideration, to leave the question as much undecided by any public declaration as it was left by the public Offices and Canons of the Church ; for the better security of discipline, and to prevent any advantages that might be taken by the dissenters, or seem to be given them in favour of their baptisms, though they do not properly come within the question of lay baptisms in cases of necessity*.” †

Here, then, was certainly a very proper measure undertaken to settle this matter finally. The Bishops of both provinces assemble and discuss it, (it would be satisfactory to know *how many* of them,) and seem to have come to a determination on the matter. Just, however, as the determination is to be published, some withdraw their assent, and it is *annulled*. Again, it seems, the matter was discussed and determined by the Bishops of the *Southern Province, as the Upper House of Convocation* ; and again an authoritative declaration of their decision is prevented. Now when we observe that that decision was, in fact, that lay baptism was *valid*, though it was to be “*discouraged as much as possible*,” and when we remember, as we have already seen, that each previous movement since the Reformation had *tended nearer and nearer* to a declaration of its

* Archdeacon SHARPE'S *Charges on the Rubric of the Common Prayer*. Ed. 1753. P. 44.

† See Appendix, Note N.

invalidity, I think we cannot but regard this double prevention as a most merciful dispensation of an overruling Providence, for the protection of our Church from error. For, after all, the measures only came to this—an expression of individual opinion among the Bishops themselves:—“and it was resolved (says Archdeacon Sharpe, upon the authority of original documents,)—it was resolved, upon mature consideration, to leave the question as much undecided by any public declaration, as it was left by the public Offices and Canons of the Church.”

Thus has no subsequent synodical act invalidated, in any degree, the important Canon of 1575; and while (if Bishop Taylor be correct,) that Canon was preceded by another measure of the same tendency—the rejection of an existing Rubric which permitted midwives to baptize (and that, with an intention to restrain lay baptism generally, as Whitgift’s own testimony proves), the subsequent alterations of the Rubric after the Conference at Hampton Court, and at the Restoration, was each another step taken by our Church toward the decision of this question in the manner in which, I cannot help believing, it will ultimately, and ere long, be determined,—that *lay baptism is void*.

It is, indeed, contended by some, that although the Church of England forbids these baptisms as *irregular*, she does not consider them to be *invalid*. Whether this be her doctrine I shall now proceed to examine. It was, I own, the doctrine of Whitgift, Hooker, Bancroft, and others; if, in fact, they may be

said to go even so far with us as this; but I must protest against the tenets of individual men—however high their station, however great their character,—being taken for the *doctrine of the Church*. *This* is to be determined only from her public acts; *those* may be directly at variance with her teaching. Such indeed, I believe, in this matter to have been the case; and that while she, sincerely seeking for the truth, was led on toward it, step by step, by the hand of her pardoning God; to *all* her individual members, (just as we should expect) the blessing was not so *quickly* vouchsafed*.

Now, if we again turn our attention to the 12th Article of 1575, which has not been invalidated by any subsequent proceeding, but the principles and spirit of which, as we have seen, all the subsequent acts of the Church have tended to *carry out*—if we turn our attention again to this Article, we shall presently perceive that it teaches by implication, *if not directly*, the point for which I am contending. First, then, let us remember that in the preface to the Ordination Services, the Church proclaims it to be unlawful for any one “to execute any of the functions of a Bishop, Priest, or Deacon, except he be *called*, and admitted thereunto, by Episcopal Consecration or Ordination;” and in the 26th of her Articles of Religion, she tells us that the sacraments are not to be refused at the hands of any minister, because of his personal unworthiness,

* See Appendix, Note O.

inasmuch as "he ministereth them by Christ's commission and authority." From a comparison of these, it would appear that the Church forbids the exercise of, at any rate, to say the least, those ministerial functions which are *sacramental* by unordained men, *because they have not "Christ's commission and authority."* When, then, we find the 12th Article of 1575, not merely proclaiming that "private baptism in case of necessity, *is only to be ministered by a lawful Minister or Deacon, and by none other;*" but also, that "all other persons shall be inhibited to intermeddle with the ministry of baptism privately, *it being no part of their vocation,*" we cannot help concluding that the Church did not simply mean to restrain an "*irregularity,*" but also to forbid the rite to be administered by individuals the *personal* defects of the very best of whom might operate prejudicially, he being *destitute* of commission and authority from Christ. Again, I think that it will not be denied that the Church of England considers Baptism necessary to salvation, whenever it can be obtained—that she understands as *positive*, the command of our Lord to baptize all disciples—that she is not unmindful of His solemn declaration, that "except a man be born of water and the Spirit, he cannot enter into the kingdom of Heaven." She does not indeed presume to *limit* the grace of God, and to say, as she used of old, that where "the birth by water" *cannot* be ob-

* John iii. 5.

tained, the spiritual birth is unobtainable also ; but, mindful of the *covenant*, and grateful for the *promise*, she well knows that if, in disobedience to her Lord's command, she forbid the rite of Baptism to any who ought to receive it, the *guilt* will be upon her of effecting their eternal destruction, though *they*, perhaps, may be pardoned what *on their part* is a *necessary* deficiency.

Now the 12th Article of 1575 so positively inhibits lay baptism in *every* case, and under *any* circumstances, that if a clergyman cannot be obtained to administer the rite, the child must die *unbaptized*—the restrictions of the Article itself make this a necessary consequence, and the 69th Canon of 1603 recognises it most clearly as such.

“ If any Minister, being duly, without any manner of collusion, informed of the weakness and danger of death of any infant unbaptized in his parish, and thereupon desired to go or come to the place where the said infant remaineth, to baptize the same, shall either wilfully refuse so to do, or of purpose, or of gross negligence, shall so defer the time as, when he might conveniently have resorted to the place, and have baptized the said infant, *it dieth through such his default unbaptized*, the said Minister shall be suspended for three months,” &c., &c.

And that this Canon was esteemed an important one, inasmuch as the consequence of the Minister's neglect was that the child would die *unbaptized*, if it

died at all, is testified by the "Articles of Enquiry" at the subsequent Episcopal and Archidiaconal Visitations.

"Whether he (your minister) hath deferred or wilfully refused to baptize any infant in his parish, being in danger, having been duly informed of the weakness thereof; *and whether the child has dyed in his default without baptism.*"—*Extract from Articles of Enquiry at Met. Visitation of Archbishop of Canterbury, 1605; also of Diocese, 1609.*

"Doth he (your minister) refuse to baptize any infant in his parish, being in danger, having notice of the danger, and desired to baptize the same; and *whether any such childe have dyed through his default without baptism.*"—*Articles of Visitation of the Archbishop of Canterbury, 1618; and also in Diocese of Norwich.*

"Doth your minister wilfully refuse to baptize any infant in his parish, being in danger, having been informed of the weakness of the said childe; and *whether the said childe dyeth through his default without baptisme.*"—*Articles of Enquiry at Visitation of the Bishop of Lincoln, 1635.*

"Whether doth your parson or vicar, where there is no curate, and where there is a curate, whether doth this curate, being duly informed of the weakness and danger of death of any infant unbaptized

in the parish, wilfully refuse (being desired) to go to the place where the same infant remaineth, and to baptize it; *or of purpose, or of gross negligence, hath so deferred the same, as that through his default any child hath died unbaptized.*”—*Visitation of the Archdeacon of Canterbury*, 1636.

“Hath your Minister at any time deferred or refused to baptize any infant within the parish, being in danger of death, after notice given and request made unto him; *and hath any child died unbaptized by his default.*”—*Visitation of the Archdeacon of Norwich*, 1638.

“Whether hath your Minister, being truly informed of the danger of death of any infant unbaptized, and being desired to go to the place where the child is, to baptize it, neglected to goe; *by means whereof the child died unbaptized.*”—*Visitation of Bishop of Winton*, 1639.

“Doth your parson, vicar, or curate, being duly informed of the weakness and danger of death of any infant unbaptized in his parish, and being desired to go unto the place where the sick child lieth and baptize the same, wilfully refuse to do it, or neglect the time, *so that the child dieth without baptism through his default.*”—*Arts. at Visitation of Archdeacon of Middlesex*, 1660.

By all of which, we see, it is indicated that if the

Minister neglected to baptize a child in danger, and that child died, it would die *without* baptism;—most plainly showing (to say the least) that no lay person was *permitted* to baptize it, under *any* circumstances. And the same is shown to be the rule by the Visitation Articles of the Bishop of Ely, 1679.

Here, then, it appears, that it is evidently the intention of the Church of England, that if a clergyman cannot be procured to baptize a child in danger of death, that the child is *to die without baptism*. And the same is pointed out by the Office of Ministration of Private Baptism as it now stands, according to the alterations of 1661. And from this I conclude that the Church evidently regards lay baptism as *invalid*, for if it be not invalid, she prevents, in all cases where a clergyman cannot be procured, the *valid* ministration of the rite; and thus, as I before said, disobeys the ordinance of her Lord, and incurs a *guilt*, which for a mere “point of form” it will scarcely be supposed that she would deliberately take upon her—the *guilt* of the destruction of many thousand souls.

This argument is drawn out much more clearly and forcibly than I can do it, by the great Hooker himself:—

“Wherefore a necessity there is of receiving and a necessity of administering the sacrament of baptism; the one, peradventure, not so absolute as some have thought, but out of all peradventure the

other more strait and narrow than that the Church, which is by office a mother unto such as crave at her hands the sacred mystery of their new birth, should repel them, and see them die unsatisfied of these their ghostly desires, rather than give them their souls' rights with omission of those things that serve but only for the more convenient and orderly administration thereof. For as on the one side we grant that those sentences of holy Scripture which make sacraments most necessary to eternal life, are no prejudice to their salvation that want them by some inevitable necessity, and without any fault of their own; so it ought in reason to be likewise acknowledged that forasmuch as our Lord himself maketh baptism necessary—necessary whether we respect the good received by baptism, or the testimony thereby yielded unto God of that humility and meek obedience which, reposing wholly itself on the absolute authority of His commandment, and on the truth of His heavenly promise, doubteth not but from creatures despicable in their own condition and substance, to obtain grace of inestimable value, or rather not from them but from Him, yet by them as by His appointed means,—howsoever, He, by the secret ways of His own incomprehensible mercy may be thought to save without baptism, this clearth not the Church from guiltiness of blood, if through her superfluous scrupulosity, lets and impediments of less regard should cause a grace of so great moment to be withheld, wherein our merciless

strictness may be our own harm, though not theirs toward whom we show it; and we, for the hardness of our hearts, may perish, albeit they through God's unspeakable mercy do live. God, who did not afflict that innocent whose circumcision Moses had over-long deferred, took revenge upon Moses himself for the injury that was done through so great neglect, giving us thereby to understand that those whom God's own mercy saveth without us, are on our parts, notwithstanding, and as much as in us lieth, even destroyed, when under unsufficient pretences we defraud them of such ordinary outward helps as we should exhibit. We have for baptism no day set, as the Jews had for circumcision; neither have we by the law of God, but only by the Church's discretion, a place thereunto appointed. Baptism, therefore, even in the meaning of the law of Christ, belongeth unto infants, capable thereof from the very instant of their birth, which, if they have not howsoever, rather than lose it by putting it off because the time, the place, or some such-like circumstance, does not solemnly enough concur, the Church, as much as in her lieth, wilfully casteth away their souls."—(*Eccl. Pol.* v. lx. 7.)

Now it is very true that, in this passage, Hooker does not mention the refusal of baptism on account of the absence of a "*lawful Minister*,"s being one of the cases in which the Church would incur this horrible guilt; but any one must perceive that his arguments apply to this case as well as to

the cases of "*place*" and "*time*," if a "*lawful Minister*" be not necessary to the valid performance of the rite. And no one, who knows what the opinion of Hooker upon this point was, can doubt that this case was meant to be included by him in the "*some such-like circumstance*." That the case should not be *mentioned by him particularly*, is intelligible enough, from the consideration of the reverence which Hooker felt for that branch of the Church Catholic to which he belonged, and which according to his notions, must have incurred that guilt by her decision in 1575*. And on the other hand, the circumstance (so astonishing to many, that it causes them to doubt the authenticity of the Article) of Hooker's total silence on so important a decision, is explained, in some degree at least, by the evidence which the above extract affords, that he must have considered it not only unadvisable, but *sinful*.

Thus I *think*, it appears, that the doctrine of the Church of England is most decidedly contrary to the *validity* of Lay Baptism;—and if she has come to this doctrine only *by degrees*, it is no more than was to be expected in her recovery from a long established, and, as it is truly called by Waterland, a *most pleasing* error,—ay, if her Bishops have often intended less than the changes which they introduced express, it is surely no cause for wonder, (though it be for *praise*) that they were led by the Spirit, in their synodical capacity, to introduce *more truth* into the

* Conv. 1575, Art. 12. See page 57.

Church, than they themselves, in their personal capacity, were as yet willing, perhaps *able*, to receive.

Certain it is that the divines of our Church have come, only by little and little, to the standard of what, I think, we have seen to be the Church's doctrine upon this subject. Before the age of Charles I., what are generally esteemed the High Church divines were almost universally in favour of the validity of Lay Baptism, and after that age still many were so,—though a most marked change took place at that period, and from that period gained ground. It might perhaps be imagined that the reason of this change of opinion and sentiment in our divines is to be sought in political considerations; but I believe, and I think my readers will agree with me, that a much more satisfactory explanation is furnished by Mr. Keble, in his Preface to the late edition of Hooker.

Mr. Keble is remarking upon the distinction between the school of Hooker, and that of Laud, Hammond and Leslie,—and speaking of the discovery of the genuine Epistles of Ignatius subsequently to the time of Hooker, he goes on to say, that

“He (Hooker) did not feel at liberty to press unreservedly, and develope, in all its consequences, that part of the argument which they, taught by the primitive Church, regarded as the most vital and decisive; *the necessity, namely, of the Apostolical Commission to the derivation of Sacramental grace, and to our mystical union with Christ.*”—(KEBLE'S *Hooker*, Preface, lxxvii.)

I subjoin a few extracts which mark the change of tone and feeling upon this subject:—

ARCHBISHOP USSHER.

“What are the outward signs in Baptism?—They are the outward elements of water, and the outward sacramental actions performed about it.

“What are those Sacramental actions?—First the minister’s blessing and consecrating the water, and secondly the right applying it so consecrated to the party to be baptized.

“May none but a lawful Minister Baptize?—No, for Baptism is a part of the Public Ministry of the Church, and Christ has given warrant and authority to none to Baptize, but those whom he has called to preach the Gospel—‘Go Preach and Baptize,’ Matt. 28, 29. Those only may stand in the room of God himself, and ministerially set to the Seal of the Covenant; and it is a monstrous presumption for women or any other private persons (who are not called) to meddle with such high mysteries, nor can there be any case of necessity, to urge, as will appear afterwards*.” — (*Body of Divinity*, 3rd ed. 1648, p. 412.)

* It is true that Ussher in his youth had imbibed some puritanical notions, and that this work, which, at parts, is tinged with them, was written at a very early age, and afterwards published without his consent. It was, however, republished more than once during the author’s lifetime, without, I believe, any objection on his part; and no one will dare to assert that he changed his opinion upon this subject, or that he had not at least as much learning and piety to guide him to truth upon the matter, as had any one of his contemporaries.

ARCHBISHOP BRAMHALL.

“The child wants the use of reason to desire Baptism, the parents do desire it for the child, but want the means to procure it;—shall they christen it with sand? as was sometimes done in the like case at the instant of death. This would be no celebration, but a bold presumption and profanation of the Holy Sacrament. *How much better were it to commit it to the secret and extraordinary mercy of God, who hath not bound his power to the Sacraments, as all divines do agree.*”—(*Discourse of Persons dying without Baptism**)

HAMMOND.

“Christ I doubt not changed the Jewish ceremony in many things, as in laying aside circumcision, in commissionating his *disciples to Baptize*, (and they leaving it in the hands of the *Bishop*, and those to whom he should commit it, οὐκ ἐξὸν ἐστὶ χωρὶς τοῦ ἐπίσκοπου βαπτίζειν, it is not lawful to baptize without the Bishop, saith Ignatius,) whereas it was not among the *Jews* any part of the *Priest's Office*, any more than circumcision was.”—(*Defence of Infant Baptism*, 1655, sec. 6—1.

BISHOP JEREMY TAYLOR.

Bishop Taylor heads the 7th Rule of chapt. i, sect. 11, of his *Ductor Dubitantium* thus: “Actions

* See Appendix, Note P.

which are forbidden by the law of nature, either for defect of power or for the incapacity of the matter, are not only unlawful but also *void*;" and under this Rule occur the following remarks:—
 " In all moral actions there must be a substantial potestative principle that must have proportion'd power to the effect ; a thing cannot be done without a cause and principle in morality, any more than in nature. If a woman goes about to consecrate the Holy Sacrament, *χειρ ακυρος*, it is an ineffective hand ; she sins in attempting it ; and cannot do it afterwards ; and it were wiser and truer if men would think the same thing of their giving Baptism, unless they will confess that to baptize children is a mere natural and secular action, to which natural powers are sufficient," &c. &c. Again, under Rule 15 of Book iii, which he heads " The laudable customs of the Catholic Church which are in present observation do oblige the conscience of all Christians," he writes, " But this is to be understood of such customs as are laudable, that is, such as have no suspicion or moral reproach upon them. It was a custom in many churches anciently, and not long since in the Church of England, that in cases of the infants' extreme danger, the midwives did Baptize them. This custom came in at a wrong door, it lean'd upon a false and superstitious opinion, and they thought it better to invade the Priest's office, than to trust God with the souls which He made with His own hands, and redeemed with His Son's blood. But this custom was not to be followed if it

had still continued; for even then they confessed it was sin, *factum valet, fieri non debuit*, and evil ought not to be done for a good end. This custom therefore is of the nature of those which are to be laid aside. *Οὐδεὶς βαπτίζει εἰμὴ χειροτονίαν ἔχει, no man Baptizes but he that is in Holy Orders*, said Simeon of Thessalonica; and I think he said truly."—*Ductor Dubitantium*, Ed. 1696, p. 197.

And he speaks as strongly of the matter, and treats it more fully, in section iv., of "The Divine Institution of the Office Ministerial."

DEAN COMBER,

Bearing witness to the doctrine of the Church, "As the Apostles only had commission to do this, so with us only lawful Ministers may Baptize."—(*Short Discourses on the Common Prayer*, Ed. 1684, p. 345; 1712, p. 343.) Again and more fully:—

"He that doth Baptize ought to be a lawful Minister, for Christ gave this commission only to the Apostles, joyning the office of preaching together with it, so that unordained persons may as well presume to preach as to Baptize. And therefore the Church of old forbad women to Baptize, and *Epiphanius* accounts it ridiculous in *Marcion* and his followers to permit women to do this office. So that our Church requires it to be done by a lawful minister. I know there are some allegations out of antiquity which seem to allow of a layman to Baptize in cases of great necessity. But there are others of the Fathers who disallow that practice;

and certainly it is a great presumption for an ordinary person to invade the ministerial office without any warrant; and as to the pretence that a child may be in danger, I suppose the salvation of the child may be as safe upon the stock of God's mercy without any Baptism, as with a Baptism which is not commanded by God, and to which he hath made no promises. So that where God gives not opportunity of a person who may do it aright, it seems better to leave it undone." COMBER'S *Companion to the Temple*, Ed. 1701, p. 602.

Dr. Waterland's testimony and opinion has been already given; and those who wish to become acquainted with both sides of the question, without much labour, cannot do better than read his controversy with Mr. Kelsall upon the subject; which is only to be found in print in the tenth volume of Bishop Van Mildert's edition of his works, and the authenticity of which is fully vindicated by the Editor in his preface.

LESLIE.

"A Discourse showing who are qualified to administer Baptism and the Lord's Supper, wherein the cause of Episcopacy is briefly treated.

"No man taketh this honour to himself, but he that is called of God, as was Aaron."—Heb. v. 4. *Works*, Vol. i., Ed. 1721.

He is arguing throughout this discourse in favour of the commission to Baptize being *only to the Apostles*, and he would, I think, have made the

exception of Lay Baptism in case of necessity, if he had felt it to be an exception, especially as in his preface to the *Discourse on Water Baptism*, to which this is a kind of supplement, he speaks most strongly against the Dissenters for not allowing their children to be Baptized privately in case of extremity, but speaks nothing of *Lay Baptism* under such circumstances. In another part of his works, however, testimony is given of a nature more direct :—

“ As no man can be a lawful attorney for another, to sign and seal covenants, in his name, which shall oblige him to the performance, without a letter of attorney, expressly empowering him so to do, whereby that person does oblige himself to stand by and perform such covenants, as if he himself had signed them ; much less can any man take upon himself to be God’s attorney or representative ; and as such to *sign and seal* covenants in His name without His express commission for that purpose.”

And after showing that the *clergy* only are thus “ *God’s attorneys*,” he continues, “ *the seals of the new covenant are Baptism and the Lord’s Supper.*” *Case of the Regale. Works*, 1721, Vol. i., 659, 660.

BISHOP BEVERIDGE.

Speaking of the transmitted grace of the Holy Spirit to the clergy, in the *apostolical succession*, he continues, “ And so it is at this day ; all the efficacy that there is, or can be, in the administration of any ecclesiastical office, depends alto-

gether upon the Spirit of God going along with the office, and assisting at the execution of it, without which the sacraments we administer would be but empty signs, and our preaching no more than beating of the air. Whereas, on the other side, Christ, according to His promise, being always present, by His Holy Spirit, at the administration of the several offices, which He has ordained in His Church, they can never fail of their desired effect, if the persons to whom they are administered be but rightly disposed and qualified for it. By this means they that are duly Baptized are “born again,” not only of water, but of the Spirit also; and so, together with the “washing of regeneration, they have the renewing of the Holy Ghost.”—BEVERIDGE’S *Works*. Horne’s Ed., vol. ii., p. 93.

“Philip, indeed, *having had the apostles’ hands laid upon him*, had *thereby* received power to Baptize them with water and the Holy Ghost.”—Vol. ii., p. 95.

“For whensoever He, the great Creator and Governor of the world, hath revealed His will and pleasure to his creatures, how He would have them worship and serve Him that made them; He hath still, at the same time, constituted certain officers amongst them, to assist them in it; which officers being, as it were, His own domestics, or immediate servants. or ministers, waiting continually upon Himself and His service, He always hath reserved to Himself the constitution or ordination of them; not suffering any one that had a mind to it, to

meddle with any thing belonging to the said offices, without His leave and order first obtained. And if any presume to do it, He doth not only make what they do *void*, and of *no effect*; but he punisheth them severely for it: as we find by many instances in Holy Scripture.”—Vol. ii., p. 109.

“The other inference respects all here present: for from the premises duly weighed, you cannot but all infer, both the necessity and dignity of those Holy Orders which are now to be conferred: the necessity, in that the means of salvation cannot be administered effectually without them; and the dignity, in that they are effectually administered by them.”—Vol. ii., p. 125.

“The Fathers do offer themselves to be witnesses also in this case, but I shall trouble but these few for the present. As for the sacraments, Basil saith, ‘But they being far from us, and laymen, have no power to Baptize or Ordain.’ ‘For that,’ saith Athanasius, ‘is the office only of those that are over the Catholic Church. For it belongs to you only, and to none else, to give to drink of the blood of Christ.’ Chrysostom joins both sacraments together; ‘But,’ says he, ‘if none can enter into the kingdom of heaven unless he be born again of water and the Spirit, and he that eateth not the flesh of the Lord, and drinketh his blood, is cast out of eternal life, and all these things cannot be performed by any one else, but only by those holy hands, I mean the priest’s, how can any one without them either shun the fire of hell, or be made

partaker of the crowns that are set before us?" So that it is the priests or ministers only, *and none else*, that can administer either of the sacraments." —Vol. ix., p. 451.

"It is better, indeed, to have the sacraments administered by worthy than by unworthy ministers; but, howsoever, the sacraments may be as effectual when administered by unworthy as by worthy ministers. So that the effect of the office is not at all diminished by any defects in the officers: neither is God's grace hindered from being conveyed to such as worthily receive the sacraments, because of the sinfulness of those persons they receive them from. But a man may receive the sacraments effectually from an unworthy as well as from a worthy minister: he may be profited by the word preached and the sacraments administered, though the one be administered, and the other preached by wicked and unworthy persons; I mean, *if they be rightly called to the work*; if it be their office to preach the word, and administer the sacraments, we may hear the one and receive the other effectually at their hands, notwithstanding any personal infirmities they may be under, or be guilty of."—Vol. ix., p. 470.

BISHOP WILSON.

"They (children of believers,) have, I say, a right to all these blessings, by being Baptized by the lawful steward of the mysteries of God; for this is one of the mysteries committed by Christ to

His ministers, and to them *only*,"—*Sermons on 1 Cor. iv. 1.* Ed. 1796, p. 276.

BISHOP MANT.

"I speak of the *minister of the Church* as the person by whom the child is to be Baptized. For the commission to Baptize, together with that of preaching the Gospel, was given by our Lord to His Apostles, and by them transmitted to other ministers, whether they were those who succeeded the apostles in the government of the Church, or those who were called to inferior orders and administrations in the same. In a word, to all persons, lawfully called and sent, with Christ's commission, the ministration of Baptism unquestionably belongs.

"But this ministration belongs to no other persons than those, who are sent with Christ's commission. For the appointment of Christ is necessary to authorise the performance of any act in His name, and to give assurance of any accompanying blessings. Such is the sacrament of Baptism, administered as it is in the name of Christ, and ordained for the purpose of conveying with it remission of sins and spiritual regeneration; the ordinance 'wherein we are made members of Christ, children of God, and heirs of the kingdom of heaven.' But no authority to minister Baptism having been given to any others than Christ's ministers, it should seem that Baptism, as well as the preaching of the Gospel and the ministration of

the other sacrament, cannot lawfully, and with assurance of its efficacy, be celebrated by any others.

“And this is agreeable to the rules of the Church. For although there may have been aforetime some, who have pleaded for the ministration of Baptism in cases of great necessity by another person than a lawful minister, where a lawful minister could not be had ; and although the Church of Rome, acting under the persuasion of the absolute necessity of Baptism to salvation, has allowed persons, not having the ministerial commission, to Baptize in such cases ; and although in the earliest ages of our Reformed Church, under the influence of the like persuasion, inherited from the Romish Church, allowance was likewise given for such a practice ; yet, subsequently, following the judgment and example of the early Church, she discerned her error, and retraced her steps ; and by three successive corrections of her decision, first, by a restrictive explanation of her former law in Queen Elizabeth’s time, and then in King James the First’s, and again in King Charles the Second’s, by a new and positive provision, she determined, that even private Baptism, in cases of great necessity, should be ministered only by a lawful minister. And the ground of her determination must be judged to be, that however excellent be the sacrament of Baptism by reason of its spiritual grace, that grace is not promised except to its due administration ; and that it were better to omit the rite altogether, and to

leave the child to the uncovenanted mercy of God, than to make pretence of ministering it unlawfully, and thus attempt to bring the child into covenant with God by an instrument not of His appointment."—MANT'S *Discourses on the Church*, p. 243.

Again, in his *Notes on the Common Prayer*, Bishop Mant writes, quoting, it would seem, with some alterations, from Wheatley:—

"If, however, it be asked, whether Baptism, when performed by an unordained person, be, in the sense of our Church, 'valid,' and 'effectual,' we may answer, that, according to the best judgment we can form from her public acts and offices, it is not. For she not only supposes, in the sixty-ninth Canon, that a child will die unbaptized, if the regular minister does not come time enough to Baptize it; but in the determination of the Bishops and Convocation in 1575, she expressly declares, that even 'in cases of necessity,' baptism is only to be administered by a 'lawful Minister or Deacon,' and directly inhibits all other persons from intermeddling with it, though ever so 'privately, as being no part of their vocation:' a plain intimation that no baptism, but what is administered by persons duly ordained, is valid or effectual. For if baptism administered by persons not ordained be valid, and sufficient to convey the benefits of it, why should such persons be prohibited to administer it in cases of real necessity, when a regular Minister cannot be procured? It would surely be better for

the child to have it from any hand, if any hand could give it, than that it should die without the advantage of it. Our Church, therefore, by prohibiting all from intermeddling in baptism but a 'lawful' Minister, plainly hints, that when baptism is administered by any others, it conveys no benefit or advantage to the child, but only brings upon those who pretend to administer it, the guilt of usurping a sacred office: and, consequently, that persons so pretendedly baptized (if they lived to be sensible of their state and condition), are to apply to their lawful Minister or Bishop for that holy sacrament, of which they only received a profanation before."—MANT *on Office of Private Baptism*.

This list of witnesses might be greatly enlarged; but I have adduced amply sufficient to point out the change of feeling upon this subject, which has taken place since the discovery of the genuine Epistles of Ignatius. There has, since that period, been a growing tendency among our soundest Divines towards the denial of the validity of Lay Baptism; even as there has, since the period of the Reformation, been an ever-growing tendency in the Church, toward *the absolute declaration of its invalidity*. There exists not, indeed, any *positive, direct* decision of the subject by the latter, even as there exists no *union* of opinion upon it among the former; but we have already seen that the *indirect* judgment of the Church is so strong—that so much has been

implied by her against it—that if, as her Ministers, we are not warranted in proclaiming it *invalid*, at least, as her Ministers, we are not warranted in recognising its validity,—and still less are we warranted in claiming *her authority* to do it—using her own most solemn forms, and calling upon God, in her own words of unhesitating confidence, to recognise in Lay Baptism a covenanted validity and grace, of the existence of which, *to say the least*, she has shown herself uncertain and suspicious*.

But, leaving this question of *Lay Baptism*, and admitting, for the sake of argument, that the Church of England has not, at any rate *directly*, pronounced it to be invalid, let us briefly consider these Baptisms which we are now discussing, in the other point of view, in which we have seen they are to be considered, viz., as *Heretical Baptisms*.

Now, in order the more clearly to understand the judgment of our Church upon them *as such*, it must be remarked, that though Heretical Baptism, administered in proper form, may be of *two* kinds, viz., the one by Clergymen who have fallen into heresy, and have been thrust out of the Catholic Church—the other by Heretics who *never* were admitted into Holy Orders,—and that these two kinds of Heretical Baptism have been held by some to affect the question of validity differently, whereas all such distinction has been denied by others,—I say, it must be remarked that this distinction, be

* See Appendix, Note Q.

it right or wrong, and the disputed question of the loss, or suspension, of Ministerial *unction*, in a Clergyman falling into heresy and excommunicated, does not enter into the case before us—inasmuch as the *great* majority of these Baptisms are, beyond all dispute, *Lay* Baptisms, being ministered by persons who have never received Apostolic Ordination.

In the next place, it is to be observed that if the Church of England admits the *validity of Lay Baptism* at all, she does so upon the tradition and authority of the ancient Church. And, again, it is to be remarked, that instead of receiving that tradition *fully*, she receives it, to say the least, with *great limitations*—inasmuch as, at the utmost, she admits its *validity*, and *positively forbids its practice*. These things we have already seen; and we have seen also that our Church looks upon Heretics, of all kinds, with quite as much abhorrence as the Church of old did,—for by her Canons, she places the abettors of Heresy and Schism, *ipso facto*, in a state of Excommunication; and by her 33rd Article, she pronounces of every such person that “he ought to be taken of the whole multitude of the faithful, as an Heathen and Publican.” It surely, then, will not be urged that on either of these grounds, viz., of *Lay Baptism* or *Heretical Baptism*, the Church of England can look upon these *Lay-Heretical-Baptisms*, of which I am now writing, with greater leniency than that with which the ancient

Church would have regarded them. We will then, inquire, and that through the medium of that English divine who has most strongly advocated the *validity* of Lay Baptism and Heretical Baptism also, how the ancients regarded Baptism by Heretics.

And here, first, I am ready to admit, (for I wish not in disputed points to assume anything in which there may be a *shadow* of proof against me,) that as the bulk of the *ancients*, of the West at any rate, (I say not the *primitive* Church), seem to have regarded *Lay* Baptism to be *valid*, so do they appear to have regarded *Heretical* Baptism as *valid* also—provided only it were administered with water, and in the name of the Holy Trinity. Baptism, however, by the Arians, and by some other sects, seems to have been often excepted; inasmuch as, although it was administered by them in the *name*, it was not administered in the *faith* of the Trinity. Upon the first of these points I need not stop to quote authorities, because I am thus far *making an admission* to our opponents. In support of the second, no more is necessary than to refer to Bingham*, the great champion both of *Lay* and of *Heretical* Baptism. I must, however, pause for a moment, in order to consider the mutual bearings of these regulations; for they furnish, I think, one instance among many—and an instructive one it is with re-

* *Ch. Ant.*, Book xix., c. ii., sect. 7 and 8; also *Schol. Hist. of Lay Bapt.*, part i., c. i., sect. 20.

ference to this subject—of the inconsistencies which men will always fall into when they attempt to improve upon the Ordinances of God.

It has ever been the doctrine of the Catholic Church that the Ordinances of God are not invalidated by any personal defect in the Minister of those Ordinances. This tenet of the Church, borne out most fully by the Holy Scripture, is founded on the consideration that all worthiness and fitness to administer the Ordinances of God must depend entirely on the *Divine Commission* of the Minister, and not on any *personal* qualifications ; for, if otherwise, they would become ineffectual when administered even by the *best* of men —“Behold He putteth no trust in His Saints—yea the heavens are not clean in His sight.*” Thus, as I have already had occasion to observe, the Church of England testifies in her XXVIth Article that, “Although in the Visible Church the evil be ever mingled with the good, and sometimes the evil have chief authority in the Ministration of the Word and Sacraments ; yet forasmuch as they do not the same in their own name but in Christ’s, *and do minister by His Commission and authority*, we may use their ministry both in hearing of the Word of God and in receiving of the Sacraments. Neither is the effect of Christ’s Ordinance taken away by their wickedness, nor the grace of God’s gifts diminished from such as, by faith, and rightly, do receive

* Job xv. 15.

the Sacraments Ministered unto them ; which be effectual because of Christ's institution and promise, although they be ministered by evil men."

According to this Article and the doctrine ever maintained by the Church Catholic, as taught by Holy Scripture, a Baptism administered with Water and in the Name of the Trinity by one "*duly Commissioned to Minister in the Congregation*" would, *in every sense of the word, be valid*,—even though the Minister of that Baptism should be unsound in the faith, or should have become an infidel. But this truth, depending entirely on *Ministerial Commission*, of course does not hold good in cases where that *Commission* does not exist. In such a case, therefore, many of the ancients found themselves compelled to admit that unsoundness in the Faith in the Minister of Baptism, at any rate concerning the Holy Trinity, would render that Baptism, in every sense of the word, *invalid*. But it is surely not a little singular that this consideration did not immediately lead them to another, which, if it did not cause them to reject *Lay* Baptism altogether, should, it would appear, at any rate have caused them to reject the Baptism of all *Heretics*,—that God alone can *certainly* ascertain the soundness or unsoundness of the faith of any individual upon earth, since He only is the searcher of the heart.

Be this, however, as it may, I am ready to admit, for the sake of argument, that the majority of

the ancients, at any rate in the West and after the third century, did consider *Heretical* Baptism (by which I here mean Baptism administered in due form by a person not in Communion with the Catholic Church) to be *valid*: but in making this admission, I must most strenuously contend that the very persons who did so, would have considered it blasphemy to use our present Burial Service over one so Baptized, and not afterwards received into the Communion of the Church. They would have regarded it as a mockery of God to speak of such an one as “*our dear Brother* here departed,” and to praise Him for “His great mercy” in “delivering him out of the miseries of this sinful world,” “and in taking his soul unto Himself:” and however *excellent* may have been the individual, or however *young*, at the utmost they would have been *silent*, not in *joyful*, but in *sorrowing* hope, concerning one who had died *without* the Christian Covenant; and leaving him to the mercies of an all-pitying Creator, would have thought it audacity to determine upon His reception or rejection of him; and, far from forestalling the sentence of his Judge, would not have dared even to *speculate* upon his fate; but humbly thankful for their own Salvation, knowing that the benefit was undeserved, would have prayed indeed, but *in secret*, and not tempting their God with the inquiry, *Lord where shall this man be?*

In fact the *validity* which the ancients ascribed to Heretical Baptism in the name of the Trinity,

extended only thus far—that *in the event of such persons ever being admitted into Communion with the Church, their Baptism should not be repeated.* The ancients never held that Heretical Baptism, *in any form*, was an admission to the Christian Covenant,—that it placed the Baptized person *in a state of salvation.* They considered it *as a mere “outward form” unaccompanied by, destitute of, “inward grace;”* which defect, they thought, in the event of a person so Baptized being afterwards admitted into Communion with the Church, was remedied through the laying on of the Bishop’s hands, with the holy unction in Confirmation.

In support of what I have here stated it is not necessary to refer to ancient writers; it will be sufficient to bring forward Bingham’s testimony, who, I must again remind my readers, was the greatest of all modern advocates for the validity both of Lay and Heretical Baptism. His references to authorities are ample. And let it be remembered that I am here *stating* the opinions of the ancients, and not *defending* them. For I confess that it seems to me that, even upon their own principles, both Heretical Baptism and Lay Baptism must be pronounced *invalid*,—and, moreover, that no subsequent rite, however holy, which is not the Sacrament itself, can supply “the inward grace” which Christ has joined to “the outward form,” when duly administered and received—but of which they themselves confessed “the outward form” was

destitute, when administered *out* of the Communion of the Catholic Church.

Speaking of the absolution of penitents, and their reconciliation to the Church, Bingham remarks upon some peculiarities in “the reconciliation of Heretics and Schismatics,” and after observing that of these there were three classes, 1st, Those who had fallen into Heresy or Schism after Baptism—2nd, Those who had been Baptized in it, but *with the proper form*—3rd, Those who had been Baptized by Heretics *without the proper form*—he proceeds to say:

“The first sort were reconciled much after the same manner as other penitents, only making a confession and abjuration of their errors. But the second sort, *because they wanted the true effect of Baptism, that is, the grace and unction of the Holy Spirit, which they could not have out of the Church in Heresy and Schism*, were therefore reconciled not only with imposition of hands, but with the holy unction or chrism added to it, to give the confirmation, and denote their reception of the Holy Spirit of peace, upon their returning to the peace and unity of the Church. And the third sort, because they wanted true Baptism, were received after the manner of heathens, with a new Baptism, because their first pretended Baptism was altogether null and void. The two latter sorts of heretics were scarce looked upon as properly penitents in the Church, but were received *sub imagine pœnitentiæ*, *under the image and resemblance of the penance* that

was usually performed by those who had once been members of the Church.”—(BINGHAM’S *Chr. Ant.*, b. xix. ch. ii. sect. 7. *See also* b. xix., ch. i., sect. 2.)

Again, in the *Scholastic History of Lay Baptism*, he writes, “Now, though the Baptism of heretics and schismatics, and degraded or excommunicated clerks, was reputed valid, so as it needed not to be repeated; yet it was not esteemed so perfect to all intents and purposes as the regular and authorized Baptism of the Church, because both on the part of the receiver and on the part of the giver there were some deficiencies in it.”—(*Sch. Hist.*, P. I., ch. i., sect. 21.)

And then, after quoting the opinion of St. Austin, that those who were thus Baptized were somewhat in the condition of Simon Magus, and other bad men and hypocrites Baptized in the Church, who thereby received a valid outward form, not to be repeated, *but received not inward grace*,—and after defending this opinion from misinterpretation, and again and again stating that the validity contended for was an *outward* validity only, he continues—

“Nor was this the singular opinion of St. Austin about the deficiency of Heretical Baptism, but the general sense of the Church: for which reason they appointed that imposition of hands should be given to such as returned to the Church, *in order to obtain the grace of the Holy Ghost for them by prayer, which they wanted before, as having received Baptism*

from those who had no power to give the Holy Ghost."

And then remarking upon the fact that this imposition of hands in prayer, with unction for Confirmation, was esteemed so necessary, that although it was peculiarly the Bishop's Office, yet Presbyters were allowed to give it where the repentant heretic was in danger of death, he adds—

"And *therefore* it was thought necessary to be done when heretics came over to the Church, to supply the defects of their Baptism, *which did not minister with the outward visible form the invisible grace of the Holy Spirit before.*" —(*Sch. Hist.*, p. 1, ch. 1, sect. 21.)

Surely with this testimony of the great champion of Heretical Baptism before us, in which, I repeat, he is fully borne out by his references to ancient records—surely we cannot suppose that our brethren of old could have brought themselves to use our Burial Office over persons Baptized by Dissenters, and dying without reconciliation to the Church by absolution and confirmation; surely we cannot doubt that they would have considered it blasphemy to do so—to speak of that person as having "departed hence in the Lord," to call him, in the Christian sense, "Our Brother," and to thank God that He hath "taken his soul unto Himself," concerning "the *validity* of whose Baptism" it is testified by Bingham that—

"It signified this much, that they were not to

be rebaptized when they came over to the Catholic Church; *but it did not signify that they were in a state of salvation while they continued in heresy and schism.*"—(Bingham, *Schol. Hist. of Lay Bapt.*, Appendix, sect. 6.)

Thus may we gather what would have been the practice of the ancient Church with respect to the Burial of the persons concerning whom I am now writing: and that my conclusion is a just one, is further evidenced by the fact which I have more than once brought forward, that such persons, until Confirmed and formally reconciled to the Church, were considered heretics, accompanied by two other facts which I shall presently take occasion to notice more at large,—*that all heretics who either voluntarily separated themselves from the Catholic Church, or were openly denounced, were considered, to all intents and purposes, in a state of excommunication, and that to all persons in a state of excommunication, the rites of Christian Burial were positively and absolutely forbidden.*

As then, I repeat, the Church of England, in admitting the validity of Lay and Heretical Baptism, does so, if at all, *only* on the authority of the ancient Church, and that *with great limitations*, it cannot be supposed that she would act so inconsistently as to go *beyond* the ancient Church in this one point of Burial,—and thus recognise in that *Baptism an efficacy for Salvation* which they themselves denied, and call upon God to acknowledge

therein the ratification of a Covenant, which they would have thought it blasphemy to talk of.

But let us turn our attention to the second exception mentioned in the Rubric, and under this head the matter will become still more clear: "Here is to be noted, that the Office ensuing is not to be used for any that die unbaptized, or *excommunicate*, &c. &c."

Now, in order to understand this regulation it is to be observed that there are two kinds of excommunication in the discipline of the Church—the *excommunicatio minor*, which places the person excommunicated in a *state of penance* and *suspension* from the holy Eucharist, and the *excommunicatio major*, which cuts off the person excommunicated altogether from the Church. The Rubric which we are considering, and which did not exist in our Prayer-Book before the last "Review," does not state which kind of excommunication is intended. But the 68th Canon of 1603 forms a Canon of interpretation to the regulation of the Rubric, by forbidding the denial of Christian Burial to those who are only *in a state of penance*. The Canon provides—

"That no Minister shall refuse or delay to bury any corpse which is brought to the Church or Church-yard, convenient warning being given him thereof before, in such manner and form as is prescribed in the said Book of Common Prayer. And if he shall refuse to bury, except the party deceased were denounced excommunicated *majori excom-*

municatione, for some grievous and notorious crime, and no man able to testify his repentance—he shall be suspended by the Bishop of the diocese from his ministry by the space of three months.”

By this, we perceive, that the persons who come under the exception of this regulation are *those, and those only*, who are no longer members of the Church, and have lost *the grace* of Baptism. And it is for *this* reason that they are refused Burial,—*not because of the crime, but because they are cut off from the Church*,—for the criminal, though convicted, unless excommunicated, is not to be refused sepulture. *Thus far*, they are precisely in the same condition as those who are mentioned in the former regulation, viz., those who “die unbaptized:” both are destitute of *Baptismal grace*—aliens from the Church of God. It must, however, be remarked, that there are *limits* to the similarity of the two cases: the one, to become entitled to Christian Burial, as a possessor of Baptismal grace, must receive the rite of Baptism,—the other, to become entitled to Christian Burial, as a possessor of Baptismal grace, need only receive absolution, and become reconciled to the Church—nay, it is sufficient if any one can testify his repentance before death. Hence, it appears, that the exceptions mentioned in this Rubric to the Burial Office are *not*, as Sir John Nicholl argues, “*exactly of the same kind*.” The *first* exception is of such persons as *have not* received the rite of Baptism. The *second* exception is of

such persons as *have* received the rite of Baptism, *but are destitute of Baptismal Grace*. And this last is precisely the position of those persons of whom I am now treating, if their Baptism be *valid*,—that position, I mean, which has ever been assigned to them by all those members of the Catholic Church, whether in ancient or in modern times, who have most strongly advocated *the validity* of Baptism by Heretics.

Hence I contend, that the Church of England most decidedly refuses Christian Burial to persons who, having received Heretical Baptism, have not subsequently been “reconciled” to the Church,—for she either regards them as “Unbaptized,” and therefore places them under the *first* exception in her Rubric, or else she regards them, as the ancients did, (and it would be a folly and a contradiction to contend that she went *beyond* the ancients on this subject, when, as we have seen, she receives not their tradition thereupon without *great* limitations) as Baptized indeed, but *destitute of Baptismal Grace*, in which case, her decision is pointed out by the *second* exception. In a word, the intention of the Rubric, as interpreted by the 68th Canon, evidently is that Christian Burial is to be denied to all who die unbaptized, and all, moreover, who, having been baptized, die “ex-communicate,” viz. out of the Communion of the Church, and therefore destitute of Baptismal Grace, as separated from the Mystical Body of Christ. That this is the meaning of the

Rubric, and that those persons whose Baptism and Right of Burial we are considering, come under its *second* exception, even if they escape the *first*, will appear, I think, perfectly clear from a reference to the customs of the Church of old, as well as to the records and monuments of our own Church, since the Reformation*.

First, then, in order to show that Heretics and Schismatics were denied the privilege of the Church's rites in the same degree as excommunicated persons, and were considered *as such*, we may again refer to Bingham :—

“ We must note, to avoid ambiguity, that Heretics and Schismatics were commonly ranked in the same class with excommunicated persons. Sometimes being formally cut off from the Church by her censures, and sometimes voluntarily by their own separation; and, therefore, until they had made confession and renunciation of their errors, and were reconciled by imposition of hands and absolution, they were reckoned in the number of those to whom *communion of prayers* and this holy Sacrament were denied; and that *whether they had been baptized in the Church, or were baptized in Heresy and Schism.*”—BINGHAM'S *Chr. Ant.*, book xv., c. vi., sect. 6.

Here then, it appears, that a person baptized in Heresy and Schism, and not subsequently “reconciled” to the Church, was treated, with respect to

* Appendix, Note R.

the rites of the Church, *as an excommunicated person*. In order then to see more exactly what that treatment was, I will refer my readers to another passage:—

“No one was to receive excommunicated persons into their houses, nor eat at the same table with them; they were not to converse with them familiarly whilst living; *nor perform the funeral obsequies for them when dead, after the solemn rites and manners that were used toward other Christians*. . . . “The Apostolical Canons forbid any one to communicate in prayer, so much as in a private house, with excommunicated persons, under the same penalty of excommunication. And if they happen to die in professed rebellion and contempt of penance, then they were to be treated *as all contemners and despisers of holy Ordinances were, by being denied the honour and benefit of Christian Burial. No solemnity of psalmody or prayers was used at their funeral.*”—BINGHAM’S *Chr. Ant.*, book xvi., c. ii., sect. 11.

A third extract will place the matter beyond all doubt:—

“Another sort of persons to whom the Church denied the privilege of solemn burial, were all excommunicated persons, who continued obstinate and impenitent in a manifest contempt of the Church’s discipline and censures. *Under which denomination all Heretics and Schismatics, that were actually denounced such by the censures of the Church, were included.* For the office of burial belonged only to

the *Fideles*, or communicants, that is, such as were either in the full communion of the Church, or else, if they were excommunicate, were yet in a disposition to communicate by accepting and submitting to the rules of penance and discipline in the Church. In which case their desire of communion was accepted, as the Catechumen's desire of Baptism, and they were treated as communicants though they happened to die without a formal reconciliation to the Church."—BINGHAM'S *Chr. Ant.*, book xxiii., ch. iv., sect. 23.

Here, then, we perceive that although the *early* Church—(I use the word *early* advisedly; for I cannot find any evidence that the *primitive* Church did so)*—although the *early* Church admitted the *validity* of Heretical Baptism, still they did not admit that the "outward form," in *such* Baptism, was accompanied by "inward grace;" and therefore they denied the rite of Christian Burial to all those who had been so Baptized, and not subsequently reconciled to the Church. For be it remarked, to prevent misapprehension, that the *qualification* of the rule concerning Heretics and Schismatics, in the last extract, denoted by the words, "*that were actually denounced such by the censures of the Church,*" does not apply to such persons, (as is clearly shown by my last extract but two):—It relates not to those who voluntarily separate themselves from the Church's Communion,—and still less to those who have never been received into it; but it has refer-

* Appendix, Note S.

ence to those only who, entertaining heretical opinions, or acting Schismatically against their Bishops or the Church's regulations, would yet shelter themselves within the Church's pale, and enjoy the privileges of her Communion.

Such, then, was the conduct of the early Church upon this matter, as drawn from the testimony of the *greatest* modern advocate of the *validity* of such Baptisms;—and we are not left to mere argument—strong though, as we have seen, our ground even then would be—to prove that the Church of England is led therein by her example. We have something like *documentary* evidence to support us.

It will be remembered that the 68th Canon, which forbids the denial of Burial to any one excepting to “a person excommunicate *excommunicatione majori*,” and which, we have seen, forms an *interpretation* of the Rubric, was published in the year 1603. In the Library of the British Museum there is a Copy of “The Articles of Enquiry at the visitation of the Bishop of London*, A.D. 1604”—the very next year, be it remembered, after the above-mentioned Canon was enacted; and among these articles we find an inquiry put to the Churchwardens of every parish in the diocese, which shows at once the Church's custom with respect both to Heretics and Schismatics, and also the character of those “grievous and notorious crimes” for which the 68th Canon supposes a person to be excommunicated.

* Bancroft.

“Whether any notorious Recusant, who obstinately refuseth to be partaker with the Church of England in publike prayer, and hearing of the word of God preached, who is for his disobedience and contempt excommunicated, and dyeth excommunicate, be buried in christian buriall, not having before his death sought to be absolved, and testified the same his submission to some honest discreete man who shall upon his oath signifie to the Bishop of the Dioces, whereby his Lordship may give order to the ordinarie before whom he was excommunicate, for his absolution.”

Now, here it is to be remarked that the 68th Canon forbids, under heavy penalties, the refusal of Christian Burial to any corpse which is brought for sepulture, except that person has died excommunicate, *excommunicatione majori*. No one, I imagine, will therefore contend that persons who died *unbaptized* were to be Buried:—the Canon, as we have before seen, was an interpretation of the *old* law of the Church with respect to *excommunicated* persons; and it pronounced that those only who, with reference to the Christian Church, were placed in a condition similar to that of persons unbaptized,—or rather to that which was assigned, of old, to persons *Heretically* Baptized—were not to receive Christian Burial. Moreover, we perceive, from the above “Article of Visitation,” that any of the Church’s Children who refused to Communicate with her “in public prayer, and hearing of the word

of God preached” (put aside *Sacraments*, for these are not mentioned) were at that time adjudged to this condition and accounted unworthy of Christian Burial. Surely, then, we must necessarily conclude that one who is, to say the least, in *the same condition* of “greater excommunication,” having *never* communicated with the Church, either “in public prayer, or in hearing the word of God preached,” or even in the *initiatory Sacrament itself*, is to be refused Christian Burial in like manner.

The same truth, I think, is to be gathered from the history of the Rubric affixed to the Burial Service. Before the last “Review” it is well known that no such Rubric existed. It was then introduced (if we may believe the testimony of one of the strongest advocates for the *validity* of heretical Baptism), *in order to prevent the usage of the Church’s fervent language of hope and gratitude, and solemn claims of covenanted promise, with respect to any one concerning whom no such hope and gratitude could be felt, and no such claims could properly be put forward.* “Objecting,” (says Bishop Kennet,) “to certain other expressions of God’s ‘*taking to himself the soul of our dear brother,*’—‘*we pray thee that we may rest in Him, as our hope is that this our brother doth,*’ &c., &c.; they put in a Rubric, ‘Here is to be noted that the office ensuing is not to be used for any that die unbaptized, or excommunicate, or who have laid violent hands on themselves’*.” Surely,

* KENNET’S *Register*.

then, *if this was the very purpose of the introduction of this Rubric*, we cannot suppose that a class of persons were intentionally excluded from its provisions with respect to whom, as we have already seen, these expressions are as inapplicable as they are to persons *under sentence* of the greater excommunication. Nor is there a want of authorities to support the conclusion.

In the year 1683, FALKNER'S *Libertas Ecclesiastica* appeared, wherein he defends the Liturgy of the Church of England from the charges brought against it by the Dissenters. The following passages will be amply sufficient to show what was the custom of our Church with respect to Burial of Dissenters in those days.

“ In the Office for Burial several expressions are misliked, as being thought unmeet to be spoken *of every person dying in the Church's Communion*,—*e. g.*, ‘ That Almighty God, of His great mercy, has taken to himself the soul of the person departed ;’ when we cannot assert that every person *dying in our Communion* is eternally saved.” P. 289.

Again,—

“ And whereas this Office calleth the deceased person *our brother* and *our dear brother*, these phrases may undoubtedly be applied to every person who, professing Christianity, *dyeth in the Church Communion*.” P. 291.

And again, concerning the supplication that
“ we may rest in Him, as our hope is that this *our*

brother doth”—he remarks upon the propriety of retaining “such ordinary expressions of the hopefulness of them who depart this life *in Communion with so excellent a Church as this.*” (P. 294.) And in connexion with this, he speaks of “the charity of the ancient Christian Church in expressing their hope of them who *dyed in their communion,*” (p. 295.) The italics are *his*.

I shall, however, no doubt, be told, by those who, with Sir John Nicholl, consider an Act of Parliament superior in authority, as to such matters, to the decrees of Apostolical Synods, that though that which is here implied may then have been very true; viz., that the Burial Office was used *only* for those who died *in Communion with the Church*, yet, that the Toleration Act having since been passed, matters are now altered! We will turn, then, to subsequent authorities.

COMBER'S *Companion to the Temple*, appeared in the year 1701; viz., twelve years after the passing of the Toleration Act. And let me remind my readers that, whether as Dean of Durham, or as Chaplain to King William, the great patron of dissent, he was no inconsiderable authority:—and it is worth remembering, also, that the Book, “designed to explain and vindicate the Liturgy of the Church of England,” is dedicated to the King, who is styled by the author “a Second Restorer and Defender of our primitive Way of Worship.” Now, in the introduction to the “Office for the Burial of the

Dead," we find the following testimony. "The persons capable of Christian Burial *are only those within the pale of the Church; for the Rubric excludes all others from this privilege.*"

And after particularizing the exceptions, he continues, "All other persons *that die in the Communion of the visible Church*, are capable of these Rites of Christian Burial, according to the *Rules and Practice* both of the Primitive and the *present* Ages. P. 780.

Again. In his *Short Discourses on the Whole Common Prayer*, which Book was first published in 1684, but republished by himself in 1712, the same author writes,—

"The Rubric informs us that this office (viz., Burial,) is denied to some: viz., to those who die in that desperate sin of self-murder,—whom the Jews and Gentiles also suffered to lie unburied, to deter others from so horrid a crime. It is denied also to all that die excommunicated, because they having by their crimes *cast themselves out of the Church*, cannot be called brethren, nor buried by this Office; nor infants who die unbaptized, *and were never yet admitted to the Church.*" Ed. 1684. P. 422; Ed. 1712. P. 419.

Again. In the year 1710, Dr. Nicholls' book upon the Common Prayer was published; and he gives testimony with sufficient clearness, in his remarks upon the Rubric to the Burial Office, that that Office is intended only for those who have re-

ceived “*Redemption of Baptism*,” and have thus been made members of the Catholic Church, and therein have died.

“*Unbaptized*,—Our Church prohibiting here the Burial Office to be used for persons who die unbaptized, is but agreeable to an ancient practice of the Church. For the first Council of Bracara which was held A.D. 563, determines the like. *Item, placuit ut Catechumenis sine redemptione Baptismi defunctis neque oblationis commemoratio, neque psallendi impendatur officium. It seemeth good to us that as for catechumens who die before they have Redemption of Baptism, there should be no oblations or commemorations made for them, neither should the office of singing be used at their funerals.*—CON. I. BRAC., Can. 35.”

“*Excommunicate*. What is here ordered is likewise decreed by the forementioned Council of Bracara. *Nulla pro illis in oblatione commemoratio fiat, neque cum psalmis ad sepulturam eorum cadavera deducantur, qui pro suis sceleribus puniuntur. Let no commemoration be made for them in the oblation, nor let their bodies be brought to the grave with singing of psalms who are punished for their crimes.* CON. BRAC. CAN. 16.—Which I take to relate to spiritual punishment as well as temporal, and to prohibit sepulture to be given to excommunicates. But however, the Canon Law in this respect is more express, and quotes the Ancient Canons for it.—*Sacris Canonibus institutum ut quibus non*

communicamus vivis, non communicemus defunctis; ut careant Ecclesiasticâ Sepultura. It is enjoined by the ancient Canons that we should not Communicate with those dead, with whom we did not Communicate living, &c.—Decret. Lib. iii., Tit. 39, Cap. 12."

—And he goes on to quote the Canon Law to the effect that, if any, by mistake, had been thus Buried, and their bodies could be distinguished, they should be dug up and cast out of the Churchyard. That, however, which I wish the reader to observe, in the above extracts from Nicholl, is the testimony which they give to the fact of the Church of England, in the eighteenth century, agreeing with the ancient Church in denying Christian Burial to those who have not "*Redemption*" of Baptism—and refusing to *Communicate with those when dead—denying to them "ecclesiastical sepulture,"* viz. Christian Burial—*with whom she did not Communicate when they were alive.*

Perhaps however it may be said: This is all very well; but what positive proof is there, after all, that it applies to those whose case we are discussing—that the Church of England regards those persons who are Baptized by Dissenters, and not subsequently "reconciled" by a more orderly Baptism, or at least by Absolution and Confirmation, as being out of her Communion, or, in other words Ex-communicates? One or two considerations will, I think, make this evident.

When the great Controversy concerning the validity of Lay and Heretical Baptisms was carried on at the commencement of the last century, no complaint appears to have been made against any *general custom, countenanced by the Bishops*, of admitting to the privileges of Church Communion, without a previous formal reconciliation, persons known to be Heretically Baptized: the charges which were made were of a different nature—viz, that many such persons, sometimes from connivance, and sometimes from carelessness, were admitted into the Church's Communion *by Confirmation*, without being Baptized by a Clergyman (which the maintainers of the invalidity of their former baptism contended ought first to have been done)—and that many Clergymen permitted the persons of whom I speak, to *smuggle themselves* into the privileges of Church Communion, without any formal reconciliation whatever. Thus Mr. Lawrence in the Preface (sects. vi.—ix.) to “A Supplement to the First and Second Parts of Lay Baptism Invalid” strongly inveighs against both these evils, and also furnishes much evidence, relating immediately to the present subject of inquiry, that no person could then *claim* the privileges of Church Communion without being able to furnish proof that he had been *duly admitted* to that Communion. The passage is well worth examination, as is every page which that author published throughout the entire controversy:—but I forbear to produce it here, not

only because of its great length, but because on disputed subjects I prefer the testimony of *opponents* to that of those with whom I am agreed. Let us turn to Mr. Bingham:—

“I have said thus much upon this head to show those who are Baptized in Heresy or Schism what was the true ancient method of reconciliation, and the way to die securely in the peace and Communion of the Church—and if all persons concerned would observe this method, there would be no need of disputes about rebaptization in the Church. For it appears that the unauthorized baptism of heretics and schismatics may be reputed valid, and without rebaptizing have its defects supplied by imposition of hands in Confirmation.”—*Schol. Hist.* ch. i., sect. 21.

Here, then, it appears that the great advocate for the validity of these Baptisms ascribed to them those defects, *in the judgment of the Church of England*, which, we have seen from his testimony, they had according to the judgment of the ancient Church; and these defects, we must remember, were *an entire absence of “inward grace,” rendering the person so Baptized incapable of the privileges of Church Communion until such time as they were supplied in the way which he here points out.*

In his “Epistle Dedicatory” to the Bishop of Winchester, prefixed to the second part of the *Schol. Hist.*, he gives testimony still more valuable and direct. “Nor did I perfectly know your

Lordship's sentiments upon the point, till you were pleased to honour me with a letter of thanks for my book, and tell me that you exceedingly approved of it; and particularly of that part of it which treats of the deficiency of heretical and schismatical baptisms, *and of the obligation those who are so baptized be under, to return to the unity of the Church, in order to have the defects of their baptism supplied by imposition of hands in Confirmation*; which was the usual way of supplying such defects, according to the general rule and practice of the ancient Church."

And then, after citing his Lordship's testimony that all the Bishops of both provinces were unanimously of the same opinion, and alluding to the fact of the Bishop having declined to sign the "intended" declaration at the Lambeth Conference, he proceeds:—

"And so far both the rules and practice of the Church of England, for these last two hundred years, are clear, for we have neither order nor example to encourage rebaptization in any such case, no, not after the rubric had confined the ministration of Baptism wholly to the hands of a lawful minister—for still no rules were made that such as were not baptized by a lawful minister should be rebaptized; *but they were required to receive the Bishop's Confirmation, and then were admitted to the Eucharist, and the privilege of Christian Burial.*"—*Ep. Dedic.*

Now, with the soundness of this testimony, as respects the *validity* of such baptisms, I have in this place nothing whatever to do—having sufficiently for my purpose discussed that question already. But I must beg my readers especially to remark that we have here the evidence of the great champion of those baptisms, that the Church of England does not admit persons so baptized to the privilege of Christian Communion in general, and to the privilege of *Burial* in particular, *unless they have been “reconciled” to the Church by imposition of hands in Confirmation*: and moreover to observe his statement, made on the authority of the Bishop of Winchester, that all the Bishops who at “the Lambeth Conference” agreed, we are told, that such baptisms are *valid*, were also in *this* matter “unanimously of the same opinion” with himself,—that persons so baptized could not be admitted to the privileges of Church Communion, unless subsequently Confirmed.

I will produce one more testimony, and one only, to the effect that persons out of the Communion of the Church, as we have now seen that those persons are whose case we are discussing, are not entitled to Christian Burial.

Among Bishop Kennet's MSS., which form a part of the Lansdowne Collection in the British Museum, there is a letter from the Reverend John Stileman, dated “East Farndon, near Harborough, September 19, 1722,” requesting the Bishop's com-

mands concerning the Burial of certain Quakers, whose death he expected. These persons, he states, had been Baptized in their infancy ; but, of course, as Quakers, *renounced* their Baptism. In the Bishop's answer, dated " Peterbro', September 23," a copy of which is affixed to Mr. Stileman's letter, his lordship directs that gentleman to ascertain, from their own mouths, whether these persons had been Baptized or not,—and if they had been Baptized, whether they *renounced* their Baptism : and in the event of their having been Baptized, and *renouncing* their Baptism, and not *recalling* their renunciation before death, *to refuse to Bury*; or at any rate, (to do that which, with all due deference to Bishop Kennet, I must remark that Clergymen are bound, by the fourteenth Canon of 1603, *not* to do), to leave out parts of the service. " If," (writes the Bishop,) " I did, in charity, prevail with myself to do it," (*i.e.*, to Bury them,) " I should think it excusable to omit such expressions as were certainly intended for those who were admitted by Baptism, *into the Church, and die in the Communion of it.*" And then Bishop Kennet thus continues—

" The common law, you know, has lately determined that every parishioner has a right of sepulture in the church-yard, *without regard to his being in or out of the Communion of the Church*; but the right is *only to a grave, and to the body being put into it and covered with the earth, without any right to our Burial Service.*"

Now, this testimony is valuable in more respects than one:—First, because it is the testimony of one of the greatest authorities of his age:—Secondly, because it is the testimony of one who was a most strong advocate for the *validity* both of lay and of heretical Baptism, and one, too, whose prejudices would have inclined him to an opposite view of the subject:—Thirdly, because of the *date* of the correspondence,—one hundred and twenty years ago, and only thirty years after the passing of the Toleration Act, on which Sir John Nicholl endeavours partly to support his decision:—and Fourthly, because of the *form* in which the testimony is given; viz., *a reference to a recent modification of an implied well-known general rule, in order to explain the nature of that modification, and to declare its limits.*—For I must contend that the above extract from Bishop Kennet's letter is intelligible only on this hypothesis; viz., that it had been the general custom to *refuse* sepulture in the church-yard to those who were *not in communion with the Church*,—that the Common Law had lately decided that *all* parishioners, having, *as such*, a property in the grave-yard, had a right to sepulture there,—but that this decision did not declare that they had any right to the privileges of Christian Burial, but only to the occupancy of a grave.

Here, then, I contend, we have a sufficient evidence that it was the custom of the Church of England, before and up to the year 1722, to refuse

the rite of Christian Burial to persons not in Communion with the Church. And that when the Common Law awarded to every parishioner, *as such*, a right of sepulture in the Church-yard, it did not pretend, in so doing, to award to them, as such, any right to the privileges of Christian Burial.

We are told, indeed, by Sir John Nicholl*, that “our Church knows no such indecency as putting the body into the Consecrated Ground without the service being at the same time performed;” and in this I quite agree with him. Our *Church* does indeed know no such indecency.—If such is to be done, it was not the *Church* which ordained it, but the *Common Law*. The *Church* considers “the Consecrated ground” as dedicated to God, and the cœmetary or resting-place *only of the Faithful, as members of the mystical body of His Son*. In *her* view, to inter therein the body of any other person is to *defile* that holy place. And if the Common Law, forgetful of its God, and inconsistent with itself, awards this sepulture as a right to those who indeed *may* have a *proprietary* claim, but neglect to perform the Conditions for its enjoyment, *the Church*, at any rate, will not participate in the crime, though she may lack the power to prevent it; and if, from weakness, she permits the sepulture to be performed, she does so *in silence*, considering it both desecration and persecution†.

* Judgment, p. 34. † See Appendix, Note T.

Sir John Nicholl, however, in making the statement to which I have alluded, does it not in the sense in which I admit it to be true. He is, as usual, *jumbling up together* the Common Law and the Law of the Church: and in order to form thereon arguments for the Burial of all Dissenters, he tells us that by an Act passed in the third year of James I:—

“Papists are not only *permitted* to be Buried by our Church, but are *required* to be so. Popish Recusants are required to be buried in the Church or Church-yard, or a penalty is incurred by their representatives; and this, not by putting the body into the ground without the ceremony being performed, but the minister is to read the service; our Church knowing no such indecency as putting the body into the Consecrated ground without the service being at the same time performed.”—(pp. 33, 34.)

Here, then, we see that the “Official Principal of the Arches court of Canterbury” is settling the question, after all, entirely on the authority of an Act of Parliament, without any reference to the decisions of the Church. This, of itself, in the position which he held, is somewhat singular! But will it be believed that the Act which he quotes not only fails to bear him out in the construction which he puts upon it, but is diametrically and most clearly against it? Yet such is certainly the case:—and as we have before seen, that Sir

John Nicholl was grossly ignorant of theology and of the Canon Law of England—so does this, I fear, prove him to be alike ignorant (I speak *comparatively*—as of one holding his responsible office) of the Statute Law—if not, as a judge, to be guilty of most reprehensible carelessness.

The Act, or rather Acts, to which Sir John Nicholl refers, are the 3rd James I. cc. iv. and v. and they are, in fact, nothing more or less than *traps to catch Papists*. The title of the first Act is—“An Acte for the better *discovering and repressing* of Popish Recusants”—and it states that such an Act is necessary, because many hide themselves under occasional conformity while they are plotting mischief to the state. It enacts, among other things, that they shall receive the Eucharist at least once a year at their parish church, or be fined 20*l.* for the first omission, 30*l.* for the second, 40*l.* for the third. It enacts that Churchwardens and Constables, under a penalty, shall “present” their absence from Church,—and the age of each of their children, as nearly as they can discover it, to be entered and recorded at the sessions. It authorises Bishops and Justices to administer to them the oath of allegiance, at any time,—and, in a word, the entire Act has evidently a secular object in view. The other Act, the title of which is, “An Acte to prevent and avoid the dangers which may grow by Popish Recusants,” and which is immediately consecutive to former (for they are,

indeed, one Act divided into two, evidently for mere convenience,) states, that whereas divers Jesuits and Popish Priests are seducing many in Recusancy, and that in a hidden manner, therefore it is enacted in order to "*discover*" and repress them. Now clause x., which is that to which Sir John Nicholl refers, runs thus :—

"And for that Popish Recusants are not usually married, nor their children christened, nor themselves buried, according to the law of the Church of England, but the same are done supstitiously by Popish psons in secret, *whereby the dayes of their marriages, births, and burials, cannot be certainly known*, be it further enacted," . . . that every person so married shall forfeit any freehold property which he or she might become entitled to by the marriage, or if there be no freehold property, then, 100*l.*, and also 100*l.*, for every child not Baptized by a lawful minister. . . . "And if any Popish Recusant, man or woman, not being excommunicated, shall be buried in any place, other than in the Church or Church-yard, or not according to the Ecclesiasticall Lawes of this Realme, that the Executors or Administrators of every such person, so buried, shall forfeit the sume of twenty pounds."

Now it is evidently from this clause that Sir John Nicholl concludes that the clergy of the Church of England are bound to Bury all Papists, and therefore all Dissenters of every kind. It is true that the clause says nothing whatever about

compelling the Clergyman to Bury the Papists ; but only fines the representative of the Papist, for procuring his interment elsewhere.—It is true that the *exception* mentioned, of “Excommunicated Persons,” makes nothing, directly or indirectly, for Sir John Nicholl’s argument, inasmuch as there were many Papists, in those days, who had neither been publickly “excommunicated,” nor were by their own deed “excommunicates,”—for they had been admitted by Baptism members of the Church of England, and still were so, but were acting schismatically against the Church’s authority, and that, as the Act itself testifies, *in secret*.—It is true moreover that, in those times, they kept a pretty strict account of Popish Recusants, and that while the Act states itself to be framed for the purpose of *discovering* them, the clause which we are considering alludes directly to that “*account*,” and endeavours to insure its correctness.—These things are true,—and it is somewhat strange that, in the interpretation of this law they should have escaped Sir John Nicholl’s observation. But more strange it is—ay, passing strange—that “the Official Principal of the Arches Court of Canterbury” should have pressed these Acts into his service, without perceiving that they contain a proviso (which is found also in an Act passed for their interpretation, a few years later) that nothing contained in them “*shall take away or abridge the authority of Ecclesiastical Censures* ;” and that while the clause to which Sir

John Nicholl alludes contains an *exception* of such—viz. Popish Recusants—as are *excommunicated*, this exception manifestly includes *all* Popish Recusants who are actually, upon sufficient evidence, known to be such; for the “discovery” and “conviction” of Popish Recusants is the professed purpose of these laws, and the *very next preceding* Clause provides, “And be it further enacted by the authority aforesaid, that every Popish Recusant which is, or shall be, convicted of Popish Recusancy, shall stand and be reputed *to all intents and purposes, disabled as a person lawfully and duly excommunicated.*” So that, after all, this law, upon which Sir John Nicholl founds so much, instead of compelling the Clergy to bury Papists, most positively *forbids* the performance of the Burial Office over any who are known to be such; and the provision concerning their burial turns out to mean but little more than this,—that whereas some Popish Recusants concealed their Recusancy, and thus avoided the penalties which as Recusants they had incurred, if that Recusancy should be discovered after their death, being betrayed by the manner of their burial, those penalties, in a somewhat mitigated form, should fall on their Executors and Administrators.

Here, then, we see another of Sir John Nicholl’s gigantic-looking columns, on which he has sat frowning for the last thirty years, silencing and overawing the Clergy of the Church of England, turns out, upon examination, to be nothing but a pillar of

smoke. By this, and such-like fallacies*, for more than a quarter of a century, has the Church's discipline been set at nought, and every species of Heresy nursed and fostered, to the dishonouring of God, the rending of Christ's mystical body, and the *working out* of our destruction, whether as a Church or as a Nation. The evil was foreseen 130 years ago, and burst into existence from the very moment that the *validity* of such Baptisms was acknowledged by men of influence and authority, even though the privileges of Church Communion were denied to those who had been thus baptized. The fearful mischief which did in fact result, was most pathetically and graphically foretold by a learned and pious layman of that day†. But the evil has been an hundred-fold increased by the *erroneous* decision (for such, I trust, I may now be permitted to call it, without incurring a charge of presumption) of the late Sir John Nicholl, awarding to persons so baptized, and in consequence of their baptism, a Christian character and Christian privileges, which *the Church* has ever denied to them. I do not hesitate to assert that one effect of this decision (to say nothing of its other results, in the fearful dishonouring of God, and the consequent chastisement of the Church) has been an alarming increase of Dissent and Heresy, by which also the

* See Appendix, Notes U. and V.

† Lawrence's Supplement to the First and Second Parts of *Lay Baptism Invalid.*—Preface.

political horizon has become darkened,—and who shall determine whether it has not been so, in part, as a punishment for our sin in submitting to it? But the evil has extended *beyond* our land, not only in its remote consequences, but even in its immediate operation; and we find the Churches of the Colonies called upon to adopt it, upon the authority of the example of their parent Church, and receiving from us a custom dishonouring to their God, destructive of the souls of Christians, and fatal to their own prosperity,—and marring their efforts for the salvation of the heathen which surround them, as tending to the destruction of that visible “*oneness*” of believers, which Christ Himself appointed as the evidence of His mission from the Father*.

All these evils, ay, and many more, flowing on from them in a train of incalculable succession, have, and will have, their origin in Sir John Nicholl’s decision, or rather in the unwarrantable deference which has been paid to it. It is high time that the mischief should be checked:—high time it is that care be taken that no such should ever again occur. Such matters must not be decided by Lay Judges.—Apostolical powers cannot be delegated.—The Bishops, upon such questions, must decide *in person*:—and beyond them we want an Ecclesiastical

* See John xvii. 21. 23. An Official Correspondence was published in the course of last year, between the Governor and the Bishop of Bombay, upon this subject; wherein it was decided that Sir John Nicholl’s decision was to guide the Clergy of that Presidency.

Legislature, and a High Court of Ecclesiastical Appeal. I say this not without high authority. In the debate upon a petition, lately presented to the House of Lords by the Archbishop of Dublin, the Bishop of London is reported to have said, "He thought it extremely desirable that something in the nature of a Legislative Assembly should be established in the Church; but the only difficulty was how it was to be established, and that difficulty he had never been able to solve"* . And other Bishops, it seems, were of the same opinion.

What the peculiar difficulty of "establishing" such a "Legislative Assembly" may be, his Lordship, of course, understands far better than I do. But while, surely in common with every Churchman, I joyfully hail it as a most blessed omen that the "*desirableness*" of such a thing is recognised by one of such high station, character, and influence, I cannot bring myself to believe that the difficulties of establishing it are absolutely insurmountable. As to the *nature* of such a Legislative Assembly, I think the Bishop himself would grant that there is no doubt, at all, what it should be,—because it has been traced out by God Himself—we have the model of it in the Bible—its types in the government of the early Church.—To decide upon any question of difficulty, and to form, too, a Court of ultimate Appeal, when occasion required, Episcopal Synods were called together, assisted at times *in their pre-*

* *Times*, May 27.

vious deliberations by Presbyters, and at times by Deacons also. In like manner an Episcopal Synod is the only proper "Legislative Assembly in the Church" now, and the only one on which we may expect the Divine blessing to rest. It is God's own provision for the government of His people;—how, then, *can* we believe that there would be found any *insurmountable* difficulties in establishing it? Some difficulties, however, no doubt have to be contended with:—the State might not immediately demand a submission to its decisions—nay, perhaps it might, for a time, *uphold and encourage* a schismatical opposition to its decrees. But if in simple dependence upon God's covenanted aid, and perhaps with *richer* blessing because "the help of Egypt" was refused—if, like as in ancient days, with *His* blessing alone to support it, such a Synod were every year assembled, for the guidance of the Church's spiritual affairs, and the determination of cases of difficulty, not only would the great majority of the Clergy consider themselves under moral obligation bound, in the sight of God, humbly to submit to its decisions,—but thousands would hail it as a boon of inestimable value—the earnest of Christ's presence with His people*.

Meantime, till this be done, every individual clergyman has a duty to perform, if not in the work of *restoration*, at any rate in stopping the progress of *decay*. The times in which we live are evil or

* See Appendix, Notes W. and X.

auspicious, according to the light in which we consider them ;—evil, indeed, in that iniquity abounds ; auspicious, too, in that we have, at length, found out our malady, and are anxiously desiring to bring about a cure. We must not, however, expect that this is to be done without *suffering*. We have sinned and done very wickedly ;—and surely it will be sufficient mercy if restoration *with punishment* be vouchsafed to us. Too many are apt to pray for the repair of our spiritual Zion, without being willing to bear any part in the labour of it. Some one, be it remembered, must *commence* in all things ;—and what right have we to shift the cross upon *another's* shoulders? “What use is it for *me* to move,—a *generation* will set such things right,” being interpreted, usually might be rendered, *Let others suffer, but let me enjoy!* The eye of God is upon all—and each, in privilege or punishment, must bear his burden.

To the individual subject which we have been considering, these reflections are especially applicable. We have seen the impiety of Sir John Nicholl's decision ; we have seen the havock which it has wrought within the Church ; we have seen, too, that this decision is in no sense binding on the clergy, whether for its authority or its ability. It *must* doubtless, and *will*, ere very long, be reversed ; and then all danger of inconvenience and suffering on this account will be at an end. But until this be the case, shall not the Clergy risk persecution, wherever the *Bishop* does not command the sepul-

ture to be performed?—and let us remember that the oftener we do so, the sooner will the opportunity for persecution cease. Our strength is in *union, and prayerful, faithful determination*,—and we are fighting a battle in which the victory *must* be ours. The cause we contend for is God's, our opponents'* , and our own,—and it depends upon ourselves how soon the victory shall be gained†.

* See Appendix, Note Y.

† Ibid., Note Z.

APPENDIX.

 NOTE A., p. 14.

FROM the enormous population over which many of our Bishops preside, and from the multiplicity of affairs to which they have to attend, the Archdeacons have now been forced into a somewhat anomalous position. The following testimony on the subject—one hundred and twenty years old—is not uninteresting :

“The increase of dignity and authority to Archdeacons hath chiefly arisen from the necessary attendance of Bishops upon the great affairs of the State, as well as of the Church, which hindered them from making the Visitations so frequent as the Canons required : and if the stricter ecclesiastical laws brought a necessity upon them to attend that duty once in three years, custom, advanced into a law, hath limited their Visitations to that term, and seems to restrain them from visiting oftener. Hence the attendance of Archdeacons upon this duty was rendered more necessary, and their power enlarged ; but the nature of their office by no means altered, nor their dependance upon their Bishop excused, which is then most honourable, where it is executed with subordination and just deference to apostolical authority.”—*Visitat. Charge*, May 23, 1721, by Honourable H. BRYDGES, D.D., Archdeacon of Rochester.

 NOTE B., p. 22.

“It becomes you, therefore, to be obedient with all sincerity, in honour of Him whose pleasure it is (that ye should

do so.) For otherwise a man deceives not this Bishop whom he sees, *but affronts Him who is invisible**. For whatsoever of this kind is done, it reflects not upon men, but upon God, who knows the secrets of our hearts.”—IGNATIUS *to the Magnesians*—Chevallier’s Translation.

I have said in the text, “If an individual Bishop, *as Bishop*, should give directions,” &c., &c. The meaning of the limitation will be easily seen by the consideration of two assumed cases; *but I am by no means quite sure that I am right in making such a limitation at all*. Suppose a clergyman to receive a direct command from his Bishop to Bury the corpse of such a person as I am speaking of, either in *an individual case*, or *generally*; doubtless, in *foro conscientiæ*, he is bound to obey; because he receives his direction from the Bishop, *as Bishop*. If, on the other hand, the Bishop should *refuse to give any direct command, as Bishop*; but, descending from the episcopal throne to the bench of the civil magistrate, should declare (as I have heard some persons, both clergy and laity, advance,) that “the law of the land has pronounced baptism by Dissenters to be valid, and that therefore we are bound to Bury,”—in this case, (the Bishop refusing to act *as Bishop*, and this decision of the question by him, *out of* his episcopal character, being manifestly erroneous, both in theology and law,) there seems much more room to doubt the obligation of the clergyman to obey it. But I speak uncertainly, and with much hesitation.

NOTE C., p. 25.

It is indeed most painful to use the Burial Office, with all its solemn expressions of faith, and hope, and love, over one who has been living in neglect of the means of grace, and

* Αλλα τον αορατον παραλογιζεται.

often in a course of vanity and dissipation. No doubt we are wrong to do so; no doubt the complaints made against us for so doing are perfectly just. But then the remedy for the evil is not for each individual clergyman to usurp the office of God's vicegerent, and pronounce sentence upon his brother without any authority and commission to do so: nor yet is the Church called upon to pare down her beautiful Services to fit the measure of bad men; so that they may include *all*, and be adapted to *all*, without bringing upon her any charge of inconsistency, if not of something worse. The true remedy is, the restoration of her holy discipline, or rather the bringing again into *practice* that discipline which still in *theory* exists. In the neglect of *this* the evil lies, or rather herein is our *sin*. It is true this restoration cannot be made without much difficulty. But is it therefore not to be attempted? The drunkard cannot reform himself without difficulty; but is he therefore to continue in his sin? I do not, however, think that the difficulty is one-hundredth part as great as it is generally supposed to be; and what hindrances there really are, whether they be hindrances of law, or custom, or circumstance, would, doubtless, quickly fade away before an honest, faithful, prayerful attempt on the part of the clergy; and why? because God would be with us to bless us in our exertions for His honour, and in His people's service. The platform of discipline we have complete. There are still in every parish two most important ecclesiastical officers (though now, alas! almost entirely degraded into mere *civil* functionaries,) to assist the clergymen in carrying out the Church's discipline within his cure, (and the ninetyeth Canon of 1603, awards them any number of coadjutors which may be found necessary); and it is their duty, together with the Minister, to look after the life and conversation of every individual in the parish, and to report to the Bishop for

censure and spiritual punishment, any obstinate offender against the laws of God. The people themselves are *longing* and *craving* for discipline, forming themselves into temperance societies and such-like associations,—little knowing, amid their ill-directed efforts, that all such things have been admirably provided for by the Church in her Constitutions and Canons, and that it is the *principal* duty of the Churchwardens, which they themselves annually elect, to carry these rules into execution. Why should not the clergy take a godly advantage of the feeling and temper which is now abroad upon such matters, and enlist the people in the people's cause, for the restoration of the Church's discipline? The chief difficulty in the matter is the enormous size of many of our dioceses, loading our Bishops with such a multiplicity of business as almost necessarily to separate them, at any rate, from the *great body* of the laity. It is a most delightful thing to hear of the Bishop of London confirming *twenty-one thousand* individuals in one year; but it is a most *fearful* thing to reflect upon, that such a number, in a single year, should fall to the lot of *one* Bishop,—especially when we remember that for every individual confirmed there were four or five of the same age left behind. In fact, the great size of our dioceses has almost caused our Bishops to become Bishops not of the *Church*, but of the *clergy* only. People, alas! seem to have lost the sense of blessedness in being subject to God's representative, and being in communion with him. The Bishops now have come to be looked upon merely as a kind of ecclesiastical magistrate to keep the clergy in order; and we find even those who *profess* to speak and think of them most reverently, protesting against their own most blessed privileges, and witnessing against themselves that they are, as yet, unfit for their enjoyment.

“A Bishop's rule (if we may use the term, though we hope he will always feel that he is only the first among

brethren, and not always that,) a Bishop's rule, we say, extends only over the Clergy of his diocese, and not over the laity in any wise." (*Times*, July 17, 1840)!!! What would Ignatius have said to this?

"It is, therefore, fitting that we should not only be called Christians, but be so; as some call a Bishop by the name (of his office), but do all things without him. But such men appear to me void of a good conscience."—*Ign. Ep. to the Magn.*

"I cried, whilst I was among you, I spake with a loud voice, 'Give ear to the Bishop, and to the Presbytery, and to the Deacons.' And some suppose that I spake this, as knowing before the separation of some. But He is my witness, for whose sake I am in bonds, that I knew nothing from any man. But the Spirit spake to me on this wise; do nothing without the Bishop."—*Ep. to the Philad.*

"Whomsoever the master of the house sends to be over his own household, we ought to receive him, even as we would him that sent him. It is evident, therefore, that we ought to respect the Bishop, even as the Lord himself."—*Ep. to the Ephesians.*

"See that ye all follow your Bishop, as Jesus Christ the Father."—*Ep. to the Smyrn.*

"Hearken ye all unto the Bishop, that God may hearken unto you."—*Ep. to Polyc.*

These are only a few of the passages which might be selected to the same effect from the writings of this companion of the Apostles. And we see, from the second extract, that he was *inspired* on this subject. They are given in the words of Chevallicr's Translation.

NOTE D., p. 36.

The Rubric, together with the twenty-first and one-hundred-and-twelfth Canons, which I have quoted in the text (p. 31), ordain frequent communion, and censure every parishioner who does not communicate thrice in the year at the least. A reference to the Rubric at the head of the Communion Service, (which see,) together with the following quotations from the Canons of 1603, will point out the carefulness of the Church in not allowing any unfit persons to communicate. Would that the Clergy would act upon these directions universally! They might soon find churchwardens to assist them.

Twenty-sixth Canon.—“ No minister shall in any wise admit to the receiving of the Holy Communion any of his cure or flock, which be openly known to live in sin notorious, without repentance, nor any who have maliciously and openly contended with their neighbours, until they shall be reconciled; nor any churchwardens or sidesmen who, having taken their oaths to present to their Ordinaries all such public offences as they are particularly charged to inquire of in their several parishes, shall, notwithstanding their oaths, and that the faithful discharging of them is the chief means whereby public sins and offences may be reformed and punished, wittingly and willingly, desperately and irreligiously, incur the horrible crime of perjury, either in neglecting or in refusing to present such, the said enormities and public offences, as they know themselves to be committed in their said parishes, or are notoriously offensive to the congregation there; though they be urged by some of their neighbours, or by their minister, or by their Ordinary himself, to discharge their consciences by presenting them, and not to incur so desperately the said horrible sin of perjury.”

And the twenty-seventh Canon, in like manner, forbids the Minister to admit to the Holy Communion any Schismatic or Dissenter : while the twenty-eighth Canon provides against the evasion of these rules. "The churchwardens or questmen, and their assistants, shall mark, as well as the Minister, whether any strangers come often and commonly from other parishes to their church ; and shall show the Minister of them, lest perhaps they be admitted to the Lord's table amongst others, which they shall forbid."

These things, undoubtedly, are difficult—but so were St. Paul's labours and sufferings ; yet, says he, with reference to them, "I can do all things through Christ that strengtheneth me,"—and so can we if we will. The work is not impossible ; and it *must* be done, or we are unfaithful "stewards of the mysteries of God." The great wonder is that from the decay and long disuse of discipline, the Church of England has not fallen to pieces:—*this* furnishes the only explanation of the matter, "The Lord is long suffering and of tender mercy." We may see our case in that of Sardis (Rev. iii. 1—6,) and there, too, our warning and our encouragement:—And "he that hath an ear, let him hear what the Spirit saith unto the churches." However, in the case of rejection from the Holy Communion, many Clergymen are scared at the idea of a civil action for defamation, forgetful, it seems, that *the Rubric*, at any rate, is *the law of the land*: but even if it were not so, it requires no very great degree of faith to believe that God will protect the Stewards of His own household ; and no unwarrantable "*enthusiasm*" to be willing, if necessary, to suffer with our Lord. (Rom. viii. 17, 18.)

However, the whole question of discipline is sadly misunderstood. "What's the good of it?" says one ; "Impossible to restore it," says another ; "Ambition and a love of power," cries a third ; while a fourth styles any attempt

at its revival to be “A foolish and presumptuous courting of persecution;” and a fifth settles the question, as he thinks, by inquiring, “What would people care about censure and excommunication, since the legislature would no longer be induced to inflict upon them civil penalties?” For my own part I rejoice greatly that *such* things have ceased—that such *civil* penalties would no longer be inflicted; for I verily believe that they were in no small degree a cause of the decline of discipline, and produced that mischief which will ever arise when vain, foolish man presumes to improve, as he thinks, upon the established ordinances of God. But let the following passages, from the *Sacra Privata* of the saintly Bishop Wilson, answer all such objections:—and let it be remembered they are the words of one who successfully carried out his principles:

“As discipline slackened men’s manners grew more and more corrupt, even in primitive times. There were never more infidels converted (saith Fleury) than when Catechumens were most strictly examined, and Baptized Christians sent to open penance for their sins. They that are for making still more concessions to human frailty, will at last set aside the Christian religion, which is established upon maxims of eternal truth, and not on human policy; and instead of gaining or securing the bad, they will lose the better sort.” This, for the first objection.

“Discipline impracticable? This cannot be, when it was practised for so many years in the primitive Church. And what if it be one of those things which Christ has commanded His followers to observe so strictly, and which He had learned of the Father! The commands of Christ cannot be impracticable. That would be to tax Him with ignorance or weakness. When He promised to be with His Church to the end of the world, He engaged to give such graces as were necessary to raise us above our natural weaknesses.” This much for the second objection.

“The public good is the sole end of Church discipline. The interest of the governors of the Church is no way concerned in it, but only the advantage of the flock, that sinners may be converted; that contagion may be hindered from spreading; that every one may be kept to his duty, and in obedience to the laws of God; that judgements may be averted from the public; and that God in all things may be glorified; that differences among neighbours may be made up, and charity improved, &c.” This for the third objection; and I may add that *none but the Bishops can excommunicate*. The duty of the inferior clergy, in the matter, is only to *report* for censure: and if by the direction of the Rubric and Canons they refuse to admit any notorious offender to the Holy Communion at any time, they are immediately to send an account of the circumstance to their Diocesan. What greater check could there be upon tyranny?

“Those ministers that know not what it is to bind and loose sinners, reject one-half of their Commission.” . . .

“A legal exemption cannot free a man from guilt, beyond the extent of that power which grants the exemption. If it be a human power, it can extend no farther than to exempt a man from human penalties, not from those purely Spiritual.” “The Civil Magistrate is liable to be excluded from Church Communion for such reasons as the Spiritual Governors shall judge necessary; they are to determine for him, and not he for them, in matters merely Spiritual.” “They whom fear renders cowardly in the exercise of their Ministry, forget that they act in the name and place of Christ, and are to account to Him for the mischief the Church receives thereby.” . . .

Which I suppose to be a sufficient answer to the fourth objection; and for the fifth:—

“Penances, in the primitive Church, were never

granted, but unto such as desired them, and such as desired to be converted. None were forced; but such as would not submit were excommunicated." "Excommunication is the last remedy reserved for the incorrigible, in case of enormous sins. They who despise it, know not what it is to be a heathen in God's sight,—to be without God for a Father, Christ for a Saviour, the Church for a mother, and Christians for brethren."—See Matt. xvi. 19; xviii. 17, 18; and with reference to the whole subject, I. Cor. v.

NOTE E., p. 41.

Canon 9.—*Authors of Schism in the Church of England censured.*

"Whosoever shall hereafter separate themselves from the Communion of Saints, as it is approved by the Apostles' Rules, in the Church of England, and combine themselves together in a new brotherhood, accounting the Christians, who are conformable to the doctrine, government, rites, and ceremonies of the Church of England, to be profane, and unmeet for them to join with in Christian profession; let them be excommunicated *ipso facto*, and not restored but by the Archbishop, after their repentance, and public revocation of such their wicked errors."

Canon 10.—*Maintainers of Schismatics in the Church of England censured.*

"Whosoever shall hereafter affirm, that such Ministers as refuse to subscribe to the form and manner of God's worship in the Church of England, prescribed in the Communion Book, and their adherents, may truly take unto them the name of another Church, not established by law, and dare presume to publish it, that this their pretended church hath of long time groaned under the burden of cer-

tain grievances imposed upon it, and upon the members thereof before-mentioned, by the Church of England, and the Orders and Constitutions therein by law established ; let them be excommunicated, and not restored until they repent, and publicly revoke such their wicked errors."

NOTE F., p. 41.

Let not any say that this is an "inessential" article of the Creed ; no article of *faith* is "inessential:" and the denial of *this* strikes at the very root of our individual Salvation. "Verily, verily, I say unto you, except ye eat the flesh of the Son of Man and drink his blood, ye have no life in you," (John vi. 53) ; and Ignatius testifies, "They abstain from the Eucharist and from prayer, because they confess not the Eucharist to be the flesh of Our Saviour Jesus Christ, which suffered for our sins, and which the Father, of His goodness, raised up again from the dead." "Let that Eucharist be looked upon as well established, which is either offered by the Bishop, or by one to whom the Bishop hath given his consent." (*Ep. ad Smyrn.*) "Give diligence, therefore, all to partake of the same Eucharist. For there is but one flesh of our Lord Jesus Christ, and one cup, in the unity of His blood : one altar, as there is also one Bishop, together with the Presbytery, and the Deacons, my fellow-servants." (*Ep. ad Philad.*) "He that is *within the altar* is pure. But he that is *without the altar* is not pure. That is, *he that doeth anything without the Bishop, and the Presbyters, and the Deacons*, is not pure in his conscience." (*Ep. ad Trall.*)* "Let no man deceive himself. Except a man be *within the Altar*, he is deprived of the bread of God." (*Ep. ad Ephes.*) One reference more out of very many which might be brought. "Be not

* See *Titus*, i. 15.

deceived, my brethren : if any one follows him that makes *a schism* (in the Church), he shall not inherit the kingdom of God." (*Ep. ad Philad.*) Such a testimony, from such a man, given in such an age, and under such circumstances, and, withal, so received as it has ever been by the Church, is not lightly to be cast aside.

NOTE G., p. 52.

Ignatius did not mean that the Bishop could not *depute* the office of Baptizing to inferior Ministers, for he joins the Eucharist in the prohibition.—*Οὐκ ἔξον ἔστιν χωρὶς του ἐπισκοπου, οὔτε βαπτίζειν, οὔτε ἀγαπῆν ποιειν*:—and of this he speaks just before,—*ἐκείνη βεβαία εὐχαριστία ἡγείσθω, ἣ ὑπο τον ἐπισκοπον οὔσα, ἣ ὧς αὐτος ἐπι-τρειψή*. It does not however appear that he knew much about that main prop of Lay Baptism, "*fieri non debet, factum valet*," for he continues, a few lines further on, *ὁ λαθρα ἐπισκοπον τι πρασσων, τῷ διαβολῷ λατρευει πάντα οὖν ὑμῖν ἐν χαριτι περισσεуетω*

NOTE H., p. 54.

Thus in "The Articles about Religion," approved by Convocation, and published A.D. 1536 :—

"Item.—That the promise of grace and everlasting life, which promise is adjoined unto the Sacrament of Baptism, pertaineth not only unto such as have the use of reason, but also to infants, innocents, and children ; and they ought therefore and must be Baptized : and that by the Sacrament of Baptism they do also obtain remission of their sins, the grace and favour of God, and be made thereby the very sons and children of God, insomuch as infants and children dying in their infancy shall undoubtedly be saved

thereby, *or else not.*" And the same article is repeated, word for word, in the "Institution of a Christian Man," which was published in the following year. But in the "Necessary Doctrine," A.D. 1543, it appears thus:—"Also it appertaineth and is offered unto infants, which, because they be born in Original Sin, have need and ought to be Christened; whereby they being offered in the faith of the Church, receive forgiveness of their Sin, and such grace of the Holy Ghost, that if they die in the state of their infancy they shall undoubtedly be saved." The "*or else not*" had disappeared;—not that the error had quite gone; for other passages in the same Work show that it had not: but this omission seems to indicate that it was shaken.

NOTE I., p. 55.

The first of these is still, I believe, frequently practised in the Romish Church. The second is founded on a legend (and it would seem a *mere* legend; for it does not appear to have been mentioned until a very long time after it is said to have occurred,) of the Bishop of Alexandria pronouncing that a baptism performed by the boy Athanasius on a school-fellow, while "playing at Ministers" (!), was not to be repeated: Albeit, let it be remembered, that, even if the story were true, an individual Bishop might make a foolish or wicked decision; and that St. Athanasius himself, the party concerned, was opposed to the validity of Lay and Heretical Baptism. However the story, whether true or false, was brought forward in after years in support of the validity of Lay Baptism; and it is this fact only which concerns us at present. As for baptism by a heathen, the following passage from BINGHAM (*Sch. Hist. of Lay Baptism* i. 24) will be sufficient. "I had not mentioned this question, but only because the Church of Rome

has carried the matter so far as to affirm it, contrary to the judgment and practice of all the ancient Church: for, in her Ritual of Baptism, she has this rubric or direction: "that though the ordinary minister of baptism be only a priest or deacon, yet, in case of necessity, it may be done not only by a layman or woman that is a Catholic, but by a Jew, a pagan, or an infidel."

NOTE K., p. 77.

I confess that the testimony of Whitgift seems so varied and uncertain, that I cannot quite understand it. However, we must remember that he is always witnessing against his own feelings and principles on this subject; and this circumstance must necessarily give him an appearance of vacillation, and the more so, because all his writings on the matter show that he was under a most singular delusion, as to the extent of support which antiquity afforded to his opinion. Perhaps, also, the same explanation applies to his conduct which Archbishop Sandys, at the same period, put forward in his Will, as an interpretation of apparent inconsistencies in his own; viz., that though he was quite convinced that many things ought to be altered, it was his constant effort to restrain the spirit of change that was abroad, in order that the necessary reforms should take place slowly and securely. (See STRYPE'S *Whitgift*, i. 584.) This consideration, perhaps, will furnish some explanation to the following document; which Strype assigns, though somewhat uncertainly, to the year 1584. (His words are, "Its date is about this time, *as near as I can guess*;) and this, it will be remembered, is the year after the Archbishop's translation to Canterbury. Here, in 1584, he speaks upon this subject in a tone somewhat

different to that which he made use of in 1573, 1574, (see pp. 75, 76, 77,) and still more different from that of 1603, (see p. 67):—which is only to be explained, I think, by a consideration of his private opinions, of course, inspiring a desire to repeal the enactment which was made under his immediate predecessor; by a remembrance, also, of the contentious spirit of non-conformity, which was daily gaining ground; together with the light afforded by the following passage of Collier:—"Whitgift, at his first coming to the See, had instructions from the Queen to hold a strait rein, to press the discipline of the Church, *and recover his Province to Uniformity*. This method agreed with the Archbishop's sentiment, and was probably suggested by himself."—(COLLIER, P. II. ch. vii.)

Means how to Settle a Godly and Charitable Quietness in the Church, &c., offered to the Archbishop. With his Answers, &c.*

ARTICLE.

"That all Baptizing by Mydwylffs and Women (which is a cloke of Poperie, and was first used by Heretykes, and condemned in them by the ancient Fathers, and lykewise by the Fourth Counsell of Carthage; afterwards notoriously corrupted and falsified by Gratian and others, for the maintenance of the sayd unlawful act,) may from henceforth be inhibited and declared voyde: and that no Bishop, or any of their officers, in admitting of Mydwylffs, do give them any such authoritie to Baptize as heretofore hath been accustomed."

ANSWER.

"It is a Question whether yt be lawfull for Women to Baptize or no in tyme of Necessitie. It is certain the

* Extract from Records appended to STRYPE's *Life of Whitgift*, No. xvi.

Women in that case did Circumscize without blame: And divers of the Fathers, *and some* also of the best learned of the latter wryters are of opynion, that it is lawfull for them so to doe. But that the Baptism ministred by Women is lawfull and good, howsoever they Minister it, lawfully or unlawfully (so that the institution of Christ, touching the Words and Element be duly used), no learned man ever doubted, until now of late, save one or two, who, by their singularitie in some poynts of religion, have don more harme, and given to the Adversarie greater advantage, than any thinge ells coulde doe. Neither any of the Fathers, nor that Counsell ever condemned the Baptyzing of Women in case of necessitie, and extraordinarie. But that they should Baptyze ordinarilie and without necessitie, the Papists themselves doe not allow. I never herde that any Bishopp professing the Gospell did give any such authoritie to Myddwyffes."

It is somewhat singular to find Whitgift making this assertion, when the Register of Archbishop Parker contains such a licence, given in the year 1567. (STRYPE'S *Annals*, ed. 1824, v. i. part ii. p. 242.) The Oath taken by the woman runs thus:—

"I, Eleanor Paed, admitted to the office and occupation of a Midwife, will faithfully and diligently exercise the said office according to such cunning and knowledge as God hath given me. . . . Also, that in the Ministration of the Sacrament of Baptism in the times of necessity, I will use apt and the accustomed words of the same Sacrament, that is to say, these words following, or the like in effect; I christen thee in the name of the Father, the Son, and the Holy Ghost,—and none other profane words. And that in such time of necessity, in baptizing any infant born, and pouring water upon the head of the same infant, I will use pure and clean water, and not any rose or

damask water, or water made of any confection or mixture: and that I will certify the Curate of the parish of every such baptizing."

However, Whitgift's words may mean that he never knew such a license given except for "*cases of necessity*." Or perhaps Dr. Short's explanation is the right one, that an old form of oath was administered *by some official* (which may not have been changed, from carelessness). (SHORT's *Church Hist.*, 424, a.)—And the words of the complaint, above given, yield some countenance to this. But be this as it may, it must be remarked that neither the oaths nor the complaint are any evidence against the Canon of 1575, inasmuch as the date of the former is 1567, (and I believe it to be the latest extant,) and the prayer of the complaint which Strype places in 1584, asks not only that the practice shall be *forbidden*—which that Canon does,—but that it shall be declared *void*,—which, in words, that Canon does *not*.

NOTE L., p. 95.

The Book of 1552 was restored in 1559, "withe one Alteracion or Addition of Certayne Lessons to bee used on every Sundaye in the Yere, and the fourme of the Letanie altered and corrected, and twoo sentences onelye added in the delyverye of the Sacrament to the Comunicantes, and none other or otherwise." 1^o Eliz., c. 2.

However, it is stated in the Appendix to the Introductory Chapter in Wheatley, that there were also other alterations: but none are mentioned as in this Office.

I presume that the Latin copy which I have alluded to in the text, is a reprint of the version of 1560, of which Collier speaks, "Somewhat before this time the Queen ordered the English Common Prayer Book to be turned

into Latin. Dr. Walter Haddon, as some suppose, had a share in this version. The Queen in her *Letters Patents*, of the first of April, recommends this Book to the use of both *Universities*, and to the Colleges of *Eaton* and *Winchester*.”—COLLIER, p. II., b. vi.

NOTE M., p. 101.

Sir John Nicholl (see p. 84) comes to quite a contrary conclusion from the discussion of this very “examination,” by referring entirely to the old unreformed doctrine, and losing sight of the several declarations of the Church of England for the last three hundred years. But let Arch-deacon Daubeny answer him :—“The authority by which you support the contrary conclusion is that of Lindwood. For, in page 28, you explain the phrase which occurs in the Rubric, ‘done as it ought to be,’ “by adverting to the Commentary of Lindwood, where he has stated in his gloss the terms ‘*rite ministratus*,’ ‘*legitime factum*,’ and ‘*forma debita*,’ to mean the use of water, and the form of words : this (you conclude), can leave no doubt what was the meaning of the Rubric, thus illustrated, as it is, by reference to the ancient law and to Lindwood.” But, sir, permit me to ask, is it necessary that the clergy of a Protestant Church should look to a popish civilian for directions in their ministerial office ; especially on a point which plain sense alone is sufficient to determine ? For can any clergyman say with truth that ‘all things relating to the private Baptism of the child in question were done *as they ought to be*, when the answer returned by the presenting parties to the leading question, which the officiating man is directed to propose to them, has not been in conformity with the order of the Church of England ? By the phrase *rite ministratus*, used by Lindwood, must, it is presumed, be understood, minis-

tered according to the Rites of the Church ; and by that of *legitime factum*, done according to the laws of the Church. But what might be *rite ministratus*, and *legitime factum*, in the days of Lindwood, when the Church was in bondage to Popery, may be neither the one nor the other in the judgment of the Church of England, since her separation from the corruptions of that Church. What weight soever then the authority of Lindwood might have in its application to the Church of Rome, it certainly can have none with the clergy of the Church of England on a point which that Church has so decidedly and unequivocally determined for them.”—DAUBENY’S *Exam.*, pp. 83, 84.

It is not a little singular to find a note in Dr. SHORT’S *History of the Church of England* (sect. 424,) and referred to in the index under the tempting words “Lay Baptism, the question *discussed*,” which decides, without any further discussion, solely upon the fact of the existence of this examination in the Baptismal Office, that Lay Baptism is recognised by the Church of England,—for, he says, that these questions are manifestly out of place concerning Baptism performed by a clergyman ! for which reason, also, he informs us, they are now usually omitted !—Did Dr. Short ever read the Rubric which precedes this “examination”? Did Dr. Short ever meet with the fourteenth Canon of 1603? Did Dr. Short sign at his ordination, and receive countersigned by his Bishop, the following declaration?—“I . . . do declare, that I will conform to the Liturgy of the Church of England, as it is now by law established.”

If so, this “discussion of the question” is somewhat unintelligible ; and equally unintelligible is the omission which he speaks of, and seems to defend. What the general custom may be I know not ; but I can safely say that I never heard of the “examination” being omitted by any clergyman—unless, from this passage, I am to except one

whom I greatly respect—Dr. Short himself:—and I strongly suspect that the clergy, as a body, are not very well pleased with the accusation*.

NOTE N., p. 111.

We find incidentally from Bingham that no declaration was drawn up, but only *intended*, and that the Bishop of Winchester, too, (Bingham's own patron,) refused to sign it; for he writes to that prelate, in the Epistle Dedicatory affixed to the Second Part of *The Scholastic History of Lay Baptism*, "Your Lordship was pleased also to acquaint me with what I did not understand before, that all the Bishops of both provinces were unanimously of the same opinion, which I had defended," (albeit we find from Burnet that the Bishop of Rochester, and, from Lawrence, that the Bishop of Exeter, at any rate, must be excepted from this "*all*,") . . . "And though *your Lordship did not consent to subscribe the resolution, which was then intended to be drawn up*, yet it was not," &c.

NOTE O., p. 113.

In support of the distinction which I have here pointed out, I am glad, upon this very point, to be able to quote the authority and reasoning of Dr. Waterland, from his

* Dr. Short's words, concerning the examination, in the first three Prayer Books, are, "expressions which hardly agree with the idea of the child having been baptized by a Minister, and which questions are for that reason generally omitted at present, though they have been considerably altered in point of words." However, though from this singular discussion of the question, he concludes that the Church of England *recognises* Lay Baptism, a subsequent passage (746, a,) informs us that she does not *authorise* it; for, speaking of King James's Prayer Book, he writes, "the Rubric, in the Service for Private Baptism, was so framed, by inserting the term 'lawful minister,' as to leave no doubt concerning the point, that the Church did not authorise Lay Baptism."

Second Letter in Reply to Mr. Kelsall.—(*Works*, x. 187.)
“ ‘Mr. L. (Lawrence), it seems, with a very authoritative air, takes upon himself to instruct and admonish the Clergy, and to interpret the Articles, Canons, &c.’ To which I shall only say that innocence makes a man sometimes bold, and a religious zeal will break out into tender and pathetic expostulations. As to his interpreting the Articles, Canons, &c., I find nothing objected to it by Mr. K. (Kelsall,) but that it makes ‘the Church inconsistent with herself,’ an undertaking, he thinks, ‘not very suitable to the character of so zealous a proselyte,’ &c. But what does Mr. Kelsall call the Church? Has Mr. Lawrence anywhere pretended to show that the Church contradicts herself in her public forms? No; but practice has run contrary, and some Churchmen, or most Churchmen have done so too. It may be so: yet the Church is consistent with herself; for the public voice of the Church is the Church; and while she lays down premises, consequences make themselves. However, all such kind of arguments signify little. Is the practice defensible, or is it not? If it be, show it upon principles, and argue not from practice only, the weakest reason in the world. If it be not, the obvious conclusion is that it ought to be changed. I cannot but think it a wrong way to plead practice and custom for the validity of Lay Baptism, when we want a law to found it upon. What law of God, nay, what law of our Church, authorizes any laic to baptize, that we may have some shadow of authority to pronounce it valid? But the Church, you will say, that is, Churchmen, have so practised, therefore the Church approves it. I deny the consequence; Churchmen have sprinkled in Baptism now a hundred years, or it may be more, without even inquiring whether the child be weak, and the Rubric in that case is grown obsolete: does it follow from thence that sprinkling

without necessity is according to the sense and judgment of the Church of England? The like may be said of the Clerk's placing bread and wine on the Communion Table, and perhaps of reading the Communion Service in the desk; all practised by public allowance, and yet nowhere warranted by the public acts or voice of the Church. Mr. Kelsall observes, that "the Church of England never made any Canon or law for the punishment of a Lay Baptist, who shall presume to do that office in extreme necessity"*. But what think you of these words in the Preface to the Ordination Book?—"None shall be suffered to execute any of the functions (of a Bishop, Priest, or Deacon,) except he hath had formerly Episcopal Consecration or Ordination." Is not this part of her laws, and Baptism one of her functions? And whence is it that none of our midwives, or any beside Clergymen, pretend to Baptize in cases of extreme necessity, but that they think it against law? I deny not, however, that Lay Baptisms have been constantly received as valid among us. Were it not for that, there would be less occasion for this dispute, designed, if possible, to put a stop to an inveterate practice, that has so little to be said for it.

NOTE P., p. 124.

Mr. Kelsall indeed claimed Archbishop Bramhall as a witness on his side of the question, (see *WATERLAND'S Works*, x. 73); and that, because in a certain passage he had mentioned water and the invocation of the Trinity as the essential parts of Baptism, but did not mention the Minister as an essential. I think that Mr. Kelsall did from

* Albeit, we have seen from Whitgift's testimony, that "such were inquired of by the Bishops at their Visitations and *censured*." See p. 67.

this omission in this passage presume too much, while he was unable to adduce another from the Archbishop's writings in support of his view, either positively or negatively. On the other hand, I confess that I do not know of one passage in the works of that great divine, which furnishes *direct* evidence that he held that same opinion upon the subject which I believe to be the doctrine of our Church; but while I am sure that Bramhall did not deny that Christ's *Commission* to Baptize was to the Clergy *alone*, (and this even *Bingham* without any reservation admits), I must be permitted to contend, from the passage given in the text, (so different from the language of Whitgift and others,) that if the Archbishop admitted Lay Baptism in cases of extremity, he did so against his own reasoning, and inconsistently with his own principles.

NOTE Q., p. 136.

There is a singular objection brought by many persons, (and it is an objection which has been brought in ages gone before us,) that "if Lay Baptism be invalid, it will unchristianize the whole Church of England; inasmuch as many of our Clergy, in former days, and among them one Archbishop at the least, were Baptized only by Laymen; and, therefore, if Lay Baptism were invalid, all their ministerial acts, and all the ministerial acts of those who received Baptism or Ordination through them, either directly or indirectly, must be invalid also." These objectors must surely forget our Lord's words concerning Judas, "Have not I chosen you twelve, and one of you is a devil?" They must forget that Baptism is a *personal* thing with respect to the receiver; but *ministerial* with respect to the giver; and that Orders are altogether *ministerial*. The *outward form* of Baptism is not that which makes the Christian,

without the *inward grace*. Suppose an adult to procure himself to be properly Baptized, from some sinful motive; such an one would not be, *in truth*, a Christian, though one in outward form. Suppose, further, that this same man, from a like sinful motive, should procure himself to be Ordained. No one, surely, will contend that all the ministerial acts of this Judas would be invalid! and yet no one of those Clergymen we are speaking of could be in a worse condition. But, putting this argument aside:—truth does not depend upon its consequences. We cannot make things what they are not, by showing that there are dreadful alternatives attached to them.—But let Dr. Waterland speak; and he will do it much better than I can:—

“ You say we hereby unchurch the Reformed Churches abroad.

“ We answer, that this principle of the invalidity of Lay Baptism, which several of them hold as well as we, does not unchurch them, if their want of Episcopal Ordination doth not, which is a distinct question. If their Orders are good, their Baptisms are so too. If you deny them *that*, they will not thank you for the *other*. As to our own Church, we hope the consequences drawn from this principle are not so black and tragical as is imagined; and many reasons might be given to show that they are not. But this were needless and tedious. Suppose the worst; the argument is weak and inconclusive. *A doctrine condemns thousands*, therefore it is false. Apply this to the *doctrine of the necessity of holiness*, which condemns more—apply it to the doctrines we hold against the Church of Rome, which condemns more than all the Protestants perhaps put together—apply it to the *doctrine of salvation by Christ alone*, which condemns millions, or, may be, five parts in six of the whole world. Are the doctrines therefore false? No surely. To what purpose then is it to allege the multi-

tudes concerned in the consequences of them? The argument, if it proves anything, proves this only,—that the age has been either very ignorant, or very corrupt, to reject sound doctrine, and that it wants to be reformed, and to be instructed better. And I hope this may be a sufficient answer to what you hint of the Act of Toleration, and French refugees; though it may be said further, that a man's want of *valid Baptism*, if he is episcopally ordained, does not void his ministerial performances. A man may have orders and authority to make others what he is not himself; as one, that is not himself free, may by commission make others so. This you will see enlarged upon very handsomely by Mr. Lawrence and Dr. Brett. And if this point be well settled, as I think it is, it takes off very much from the force of your objection of the many and unavoidable ill consequences of our doctrine of the invalidity of Lay Baptism.”—WATERLAND'S *Works*. Van Mildert's Ed., vol. x., p. 8.

NOTE R., p. 150.

It is argued by Sir John Nicholl, and the admirers of his decision, that as the 68th Canon forbids the denial of Burial to any one, except to one who dies under sentence of the greater excommunication, and as the Rubric joins with this, in the prohibition of Burial, only two other cases, viz., unbaptized and suicides, therefore we are bound by the 68th Canon to Bury every person who is not *literally* included in one of the three cases mentioned in the Rubric. Now, it is evident that the truth or fallacy of this argument must entirely depend on the *meaning* of the inhibition in the 68th Canon. If the inhibition is to be understood according to the strictest and most general interpretation of the words, the argument is a good one; but if, on the other hand, the

inhibition is to be interpreted with a reference to the circumstances under which it was made, the argument is unsound. Now it is the latter mode of interpretation which I contend must be resorted to, viz., that the inhibition in the 68th Canon refers to those alone who are *within* the Church; for if not, it was a command to Bury, not only persons heretically baptized and continuing in heresy, but also Jews, Turks, infidels, and idolators; and therefore, I suppose, it was that Sir John Nicholl felt himself compelled to acknowledge that it had reference to *Christians* only; and then, for his purpose, to stretch the definition of the Christian Church, so as to include every imaginable sect of heretical and schismatical professors. This, however, is so manifestly contrary to the doctrine of our Church, that, as we have seen in the text, it cannot be for one instant maintained. It is evident that by the Christian Church, the Church of England means the "One," "Catholic," "Apostolic," Church: and uniting this fact with the admission which Sir John Nicholl makes (Judgment, p. 8), that the inhibition of the Canon has reference "only to Christian persons," and which he afterwards explains of one Baptized into the Christian Church, it appears, even upon his own showing, that the inhibition to refuse Burial does not apply to the persons of whom I am writing. In fact, it is evident that this Ordinance of the 68th Canon had reference to some circumstance or circumstances which existed at the time, but which do not now immediately appear. There is, however, in WILLES' *Reports*, in the case of *Andrews v. Cawthorne* (See Note T.), a judgment of Mr. Justice Abney, delivered one hundred years ago, which furnishes a clue to this mystery. The regulation appears to have been made to restrain the Clergy in a practice, which had grown up in Popish times, of extracting heavy gratuities from the relations of the deceased, by holding out threats of a refusal

of Burial, under pretence of some heresy or misconduct in the departed. To prevent all repetition of such a shameful and wicked imposition, the matter was taken by the Canon entirely out of the hands of the inferior Clergy; and it was thereby made penal to refuse Burial to any, who, having possessed the right of Burial, had not lost it by excommunication, *excommunicatione majori*,—or, which is the same thing, *to any member of the Catholic Church*.

NOTE S., p. 152.

It would appear from the letter of Firmilian to St. Cyprian, that the upholders of the validity of Heretical Baptism were obliged to *modify* their first tenets upon the subject; that at first they ascribed more, *much* more, to such a Baptism than was afterwards claimed for it when the doctrine of its validity was more generally received. In fact, forgetting that one who is born again must be “born of water and the Spirit,” they ascribed to such as were thus Baptized the remission of sins and regeneration, though they did not ascribe to them the gift of the Holy Ghost—a distinction which is not more contrary to Scripture, than it is to the doctrine as it was *afterwards* held.—“Et quoniam Stephanus et qui illi consentiunt, contendunt dimissionem peccatorum et secundam nativitatem in hæreticorum baptismata posse procedere, apud quos etiam ipsi confitentur Spiritum Sanctum non esse; considerent et intelligant spiritalem nativitatem sine Spiritu esse non posse; secundum quod et beatus Apostolus Paulus eos qui ab Joanne baptizati fuerant, priusquam missus esset Spiritus Sanctus a Domino, baptizavit denuo Spirituali Baptismo, et sic eis manum imposuit, ut acciperent Spiritum Sanctum. Quale est autem ut cum Paulum post Joannis Baptisma iterato discipulos suos baptizasse videamus; nos cos qui ab hæresi ad

ecclesiam veniunt, post illicitam et profanam earum tinctionem baptizare dubitemus? Nisi si his episcopis, quibus nunc, minor fuit Paulus; ut hi quidem possint per solam manus impositionem venientibus hæreticis dare Spiritum Sanctum; Paulus autem idoneus non fuerit, qui ab Joanne baptizatis Spiritum Sanctum per manus impositionem daret, nisi eos prius etiam Ecclesiæ Baptismo baptizasset,”—are the words of Firmilian; and though the example which he adduces is not quite in point against the doctrine of the validity of Heretical Baptism, as it was *afterwards* held in the *modified* form in which Bingham represents it, inasmuch as the baptism of John was not a baptism in the name of the Trinity, still the fact of the Stephanites having at first maintained such a contradictory doctrine as Firmilian ascribes to them, and being afterwards compelled so materially to modify it, is a pretty strong proof that the tenet was no Apostolical tradition, and that Firmilian was justified in his observation to St. Cyprian,—“ Et quidem quantum ad id pertineat quod Stephanus dixit, quasi apostoli eos qui ab hæresi veniant, baptizari prohibuerint, et hoc custodiendum posteris tradiderunt; plenissime vos respondistis, neminem tam stultum esse qui hoc credat apostolos tradidisse, quando etiam ipsas hæreses constet execrabiles ac detestandas postea extitisse.” And I think we cannot fail to recognise no slight degree of force and truthfulness in the complaint which presently follows:—“ Eos autem qui Romæ sunt non ea in omnibus observare quæ sunt ab origine tradita, et frustra apostolorum auctoritatem prætere; scire quis etiam inde potest, quod circa celebrandos dies paschæ, et circa multa alia divinæ rei sacramenta, videat esse apud illos aliquas diversitates, nec observari illic omnia æqualiter, quæ Hierosolymis observantur. Secundum quod in ceteris quoque plurimis provinciis, multa pro locorum et nominum diversitate variantur; nec tamen propter hoc ab Ecclesiæ

Catholicæ pace atque unitate aliquando discessum est. Quod nunc Stephanus ausus est facere, rumpens adversum vos pacem, quam semper antecessores ejus vobiscum amore et honore mutuo custodierunt: adhuc etiam infamans Petrum et Paulum beatos apostolos, quasi hoc ipsi tradiderint; qui in epistolis suis hæreticos execrati sunt, et ut eos evitemus monuerunt. Unde apparet traditionem hanc humanam esse, quæ hæreticos asserit, et baptismum quod non nisi solius ecclesiæ est, eos habere defendit."

NOTE T., p. 167.

The "decision of the Common Law," to which Bishop Kennet refers, is evidently one which had just been made concerning a Clergyman in his own diocese, viz., *King v. Taylor*, H. 7, G. 1, B. R: Mr. Taylor being the Rector of Daventry, in Northamptonshire. This case is omitted in all the "Reports," which I have been able to meet with, of the law cases of that period. Strange, however, it is that this single, and I must add *obscure*, decision has been taken not only as *a* precedent, but as *the* precedent for all after decisions upon subjects connected with Burial. This, however, perhaps, has necessarily been the case as far as *Judges* are concerned; for it does not appear from the "Reports" that the *direct* question has ever again been brought into Court, but only questions (such as "*fees*," *manner* of interment, &c., &c.) *indirectly* connected with it. In several of these the case of which Bishop Kennet speaks is referred to; but most fully, as far as I can discover, in *Andrews v. Cawthorne*, (*WILLES' Reports*, 536,) 1744, a case concerning *fees*. It was by Mr. Justice Abney; in these words:—"The burial of the dead is (as I apprehend) the clear duty of every parochial priest and

minister; and if he neglect or refuse to perform the office, he may, by the express words of the Canon 86, be suspended by the Ordinary for three months. And if any temporal inconvenience arise, as a nuisance from the neglect of the interment of the dead corpse, he is punishable also by the temporal Courts, by indictment or information, 7 H., G. 1, B. R. That Court made a rule on Mr. Taylor, Rector of Daventry, in Northamptonshire, to show cause why an information should not be filed, because he neglected to bury a poor parishioner who died in that parish." The only other account of the case which I have been able to find, is in BURN'S *Eccl. Law*, Ed. 1809. "In the case of *King v. Taylor*, it was held that information was grantable against a parson for opposing the burial of a parishioner in the churchyard, but as to refusing to read the Service over the deceased, because he was never Baptized, the Court would not interpose; that being a matter cognizable in the Ecclesiastical Court. Serg. Hill's MSS., 7 D., 278." These, I say, are the only accounts that I can meet with of this case, in which the inalienable right of sepulture in the churchyard is said to have been determined; and although it may be true that my inability to see, *in these accounts of the case*, any such positive and definite determination, may probably arise from a defect of legal vision,—I presume it will not be contended that this single unsupported decision sets the matter at rest, and beyond all doubt and dispute. It will be seen in a subsequent note, (Note Z.,) that Dr. Nicholl refers to *R. v. Coleridge*, (2 B. and A., 806,) to support his opinion, "That possibly a mandamus from the Court of Queen's Bench might be obtained to compel the Burial, and a Minister from the Ecclesiastical Courts to compel the performance of the Service, in the case of an uninterred corpse:" but while, in opposition to those who suppose that a Civil Court can interfere in such a matter, I may quote

the opinion of Lord Tenderden in that case—"I am of opinion that the *mode* of Burial is a subject of Ecclesiastical cognizance alone,"—I may also state that that great Judge did not speak with anything like the *certainty* with which others have done it, of a parishioner's right of sepulture in the churchyard; but merely *assumed* the fact for the case before him, positively stating that he did so, as being granted by the defendant's counsel, inasmuch as it was disputed, not that the corpse had in every respect a right to Christian Burial, but only that it had a right to be Buried *in an iron coffin*. In fact, I believe it would be difficult to find any *evidence*, except that afforded by the single decision of *Rex v. Taylor*, that a corpse, which had not a right to the performance of the Burial Office, had a right to interment in the churchyard. Bishop GIBSON's *Codex* gives no allusion to such a right in a parishioner, a singular omission in such a work, from such a hand, if any evidence of such a right had existed. Before the Reformation, it is well known that no such right was acknowledged; and there is an instance on record, of a person, in the sixteenth century, convicted, some time after death, of heresy expressed in his will, and thereupon *exhumed and cast out of the consecrated ground*. The words of Lord Coke (2 Inst. 489) as quoted by BURN, (*Eccl. Law*, Ed. 1809, 1. 346,) seem to imply that sepulture in the churchyard is the privilege of those parishioners only who are visible members of Christ's Mystical Body. His words are, "The parishioners ought to repair the inclosure of the churchyard, because the bodies *of the more sort* are Buried there, and for the preservation of the Burials *of those that were, or should have been, while they lived, the temples of the Holy Ghost*." The prayer, too, of consecration of a churchyard, given by Burn, strongly indicates the same truth :

"O God, who has taught us by thy Holy Word that

there is a difference between the spirit of a beast that goeth downwards to the earth, and the spirit of a man which ascendeth up to God who gave it; and likewise by the example of thy holy servants in all ages, has taught us to assign peculiar places where the bodies of thy *Saints* may rest in peace, and be preserved from all indignities, *while their souls are safely kept in the hands of their faithful Redeemer*: Accept, we beseech Thee, this charitable work of ours, *in separating this portion of ground to that good purpose,*" &c., &c.

And the like, (that a churchyard is intended only for those in communion with the Church,) is shown by an "Actus Consecrationis Cœmeterii," for the parish of Lambeth, by Archbishop Tenison, A.D. 1705, given in GIBSON'S *Codex*, 1472.

"In Dei Nomine, Amen. Cum Cœmeterium Ecclesiæ Parochialis de Lambeth Dioces. Winton'. Cantuariensisque Provinciæ, angustius sit quam ut decenti ac commodæ *Fidelium* infra Parochiam prædictam demortuorum Sepulturæ sufficiat, &c., &c. . . Nos, Thomas, Providentiâ Divinâ Cantuariensis Archiepiscopus, totius Angliæ Primas et Metropolitanus (Dei Omnipotentis Nomine prinitus invocato, ejusque Auxilio et Benedictione imploratis) confratre nostro ac Reverendo admodum in Christo Patre, Petro permissione Divinâ Episcopo Winton', valetudine impedito, Auctoritate nostrâ Archiepiscopali et Metropolitana Ordinariâ, et quatenus Legibus, Statutis, Consuetudinibus, et Canonibus hujus Regni Angliæ possumus, procedentes; Fundum prædictum à pristinis et aliis quibuscunque usibus communis et profanis separandum fore decernimus, ac in usum Inhabitantium de Lambeth prædict. eorumque Successorum, in Cœmeterium sive Locum Sacrum, pro Sepulturâ *Fidelium* infra Parochiam prædictam demortuorum, aliorumque ibidem rite sepeliri contingentium, Assignamus, Dedicamus,

mus, et Consecramus, sicque separatim, assignatum, dedicatum, et consecratum, in futuris perpetuis Temporibus remanere, debere, palam et publicè Pronunciamus, decernimus, et declaramus," . . . &c., &c.

For I contend that the first clause of the document renders it evident that the "*aliorumque* ibidem rite Sepeliri contingentium," has reference of distinction not to the "*Fidelium*," but to the "infra parochiam prædictam demortuorum."

The same thing is pointed out, if possible, still more clearly in another document, "Fundatio Cœmeterii," (under Archbishop WHITGIFT, 1584,) page 1471 of the *Codex*; which, from its length, I shall abstain from giving, having preferred quoting the former, as it bears a much later date, and one subsequent to the Toleration Act.

NOTE U., p. 173.

It is, for instance, assumed by Sir John Nicholl, that if even it be necessary for a Baptism to be performed by a *lawful Minister*, to make it in the eyes of the Ecclesiastical Law a *valid* Baptism, still Dissenters' Baptisms must be considered such, inasmuch as the Toleration Act has legalized the ministrations of such persons, and therefore has made them *lawful Ministers*: (NICHOLL'S *Judgment*, p. 36, &c.) I believe this is a fair representation of his argument. Now it is certainly to be acknowledged, that the law of the land does greatly interfere, in many points, with the law of the Church; and that our Ecclesiastical Courts, defective in their very nature as *Ecclesiastical* Courts, are one lamentable result of the "fornication which our Church has committed with the Kings of the earth." (See Note W.) Moreover, there is still greater countenance given to this notion of Sir John Nicholl, from the fact, that the third clause of the Tola-

tion Act provides, "Nor shall any of the said persons be prosecuted in any Ecclesiastical Court for, or by reason of, their non-conforming to the Church of England." Nevertheless, I think, if the Act be duly considered, it will be seen not to affect this question in the way which Sir John Nicholl supposes. First, it is to be remembered, that the object and intention of the Act is not to declare the ministrations of Dissenters *valid* in the eye of the law, but, only in *such* sense to *legalize* them, as to relieve the administrators and recipients from certain civil *penalties* to which they were subject before the passing of that Act. The very title of the Act, (1 William and Mary, c. 18,) shows this—"An Act for exempting their Majesties' Protestant subjects, dissenting from the Church of England, from the penalties of certain Lawes;" and these laws are individually mentioned; and as the penalties which they ordain resulted on conviction of the offender before an Ecclesiastical Court, the Act ordained that no such conviction should take place. However, as I before stated, the Act by no means pronounces their ministrations to be, in the eye of the law, *valid* ministrations; but, on the contrary, recognises them as such, and only just such, as the law considered them to be before. It is well known, that at the time of the passing of this Act, there were several Dissenting Ministers who were in Holy Orders, having formerly received Episcopal ordination; there were others who had received Presbyterian ordination only, in direct line from the Apostles, and therefore were in pretended Holy Orders; and others there were who, like the great bulk of Dissenting Teachers in our day, had received no *transmitted* ordination at all, and therefore might be properly distinguished from the second sort mentioned, as those who *pretended to be* in Holy Orders. Accordingly, while this Act relieves Dissenting Teachers from those civil penalties which

the law had before inflicted, it speaks of them as “persons dissenting from the Church of England *in Holy Orders, or pretended Holy Orders, or pretending to Holy Orders,* or any preacher or teacher of any congregation of Dissenting Protestants;” and therefore it shows that all *pretenders* to the Ministerial Office are, in the eye of the law, “*pretenders*” still; and, hence, if any law exists, ordaining that certain things are to be done by those *only* who are in Holy Orders, if those who are *not* in Holy Orders undertake to do these things it is very evident that the law of the land does not recognise them as done, any more than it would recognise a State Paper which ought to have the signature of the Queen, if signed by some mad woman claiming her dignity and authority. Now, such a law does exist; for, as we have fully seen in the text, the Book of Common Prayer, in the Articles of Religion, Ordination Services, and Baptismal Offices, positively forbids the performance of Baptism, under any circumstances, by one who is not in Holy Orders; and the regulations of the Book of Common Prayer are not only ordinances of the Church, but are part of the Statute Law of the land. Hence, we must, I think, conclude, that although a Dissenting Teacher is not subject to any civil punishment for baptizing a child or other person, the baptism, in the eye of the law, is not considered a valid act, so as legally to entitle the person on whom it was performed to the enjoyment of that privilege which the law itself, in the Rubric to the Burial Office, *forbids* to those who have not been validly Baptized.

NOTE V., p. 173.

One of Sir John Nicholl’s most singular arguments is drawn from the circumstance of a duty having been levied upon Dissenters’ Registers during the reign of George III.,

as well as upon Church Registers, as a means of increasing the Revenue. His words (p. 38.) are as follow: "Indeed, the legislature itself (as has been pointed out,) has recognised the Baptism of Dissenters; for St. 23, George III., Cap. 67, which laid a duty upon the registers of Baptisms by the Church was extended, by St. 25, George III., Cap. 75, to the registers of Baptisms of Protestant Dissenters. Both are now repealed, but the passing of the second statute is a recognition of Baptisms by Protestant Dissenters." Surely it is somewhat singular that Sir John Nicholl could not perceive a distinction between a bare recognition of the fact, that Dissenters do baptize and register their children, and an admission that such a Baptism was valid and complete, and entitled the person so baptized to the privileges of Church Communion! But even if such a distinction did not exist, I suppose that the English legislature might make a false and inconsistent, and unconstitutional, and ungodly recognition, in the 25 George III. as well as in the reign of Victoria; for if there were then less of open opposition and impiety, at any rate, there was much carelessness, and lukewarmness, and indifference: and even if such a recognition were then made, as that which Sir John Nicholl contends for, (which I assert is not the case,) and even if it had not been recalled, (which I assert it was, if it existed, by the subsequent repeal of the Statute,) I presume the Church of Christ is not bound in her services to her God by the God-neglecting recognitions of the Civil Legislature. Sir John Nicholl, however—and this is more important—manifestly altogether misunderstood the nature of our Registers of Baptism. He seems to have regarded them simply in the light of Civil registers, (into which, alas! they are too often degraded,) and not, as they really are, the Church's most valuable, most honoured records—the register of "the children which God hath given her." Wheatly writes, "Whether the Baptisms

among the Dissenters be valid or not, I do not apprehend that it lies upon us to take notice of any Baptisms, except they are to be proved by the *Registers* of the Church. Unless, therefore, we ourselves betray our own rights, by registering spurious among the genuine Baptisms"—(and let me remark that both Mr. Lawrence and Dr. Hickes testify that this is that which in their age was *surreptitiously* done, in order to obtain Church privileges without due initiation. See HICKES' *Letter to Mr. Lawrence*, and Preface to Supplement to First and Second Parts of *Lay Baptism Invalid*.)—"persons baptized among the Dissenters can have no just claim to the use of this Office, (Burial,) for the Rubric expressly declares, that *it is not to be used for any that die unbaptized*: but all persons are supposed to die unbaptized, but those whose Baptisms the Registers own; and therefore the Registers not owning Dissenting Baptisms, those that die with such baptisms must be supposed to die unbaptized." Upon the latter part of this quotation Sir John Nicholl remarks, (page 40,) "Now this is assertion, but nothing more; for there is no authority whatever referred to in support of it,—there is no law to be found which so declares,—there is no practice which justifies this as being the rule. And to what extent, to what monstrous length would this go? No foreigners who are in this country,—not only no Catholics, but no persons born in any Protestant country in Europe,—coming into this country and dying here, could be buried according to the forms of the Church of England, because they are persons clearly not registered in this country, clearly not baptized by a lawful Minister of this country, or according to our Book of Common Prayer." Now all this is very fine,—but Sir John Nicholl might have saved himself the trouble of the greater part of it by reflecting that our Registers of Baptisms are not Registers of *a sect*, but Registers of the English mem-

bers of Christ's Holy Catholic Church,—and that the persons who Mr. Wheatly most truly states are not entitled to the privileges of Church Communion, are not all those whose names appear not in our *English Registers*, but (to use his own words) in “the Registers of the *Church*.” That the Clergyman has a right, before the Burial of a corpse, to demand the production of the Register of Baptism, is acknowledged both by Dr. Nicholl and Mr. Starkie, in “opinions” which are given in Note Z.; and the only question seems to be, whether a certificate from the Registers of the Catholic Church is to be required for the performance of the Services of that Church, or whether it is a certificate from those who separate themselves from her, and who by her are anathematized as thus separate from Christ?

NOTE W., p. 176.

It is too much the fashion now, even among those from whom we might expect better things, to talk of the union of Church and State as a kind of treaty of peace between two high contending powers, each alike suspicious of the other; and thus, when we speak of the decline of Church privileges, Church discipline, and Church order, through the unwarrantable interference of the State, we are told at once of “mutual concession for the sake of mutual advantage!” Now, as no good Christian can despise the State and resist its authority in things not unlawful, or things indifferent, (for he well knows that “the powers that be are ordained of God; whosoever therefore resisteth the power, resisteth the ordinance of God,”—Rom. xiii. 1; Tit. iii. 1,)—so no one who loves his country, and knows too what the Church of God is, can otherwise than rejoice at the connexion of Church and State, and desire to preserve it,—for he knows that therein is England's glory and protection. But does it

then follow that this system of "mutual concession for the sake of mutual advantage," is to be continued? Surely not—for herein the State reaps *no* advantage, and the Church is unfaithful to her God. Is not the Church God's own and chosen ordinance for the sanctification of the earth? And is it not through *her* that "the kingdoms of this world are to become the kingdoms of our Lord, and of His Christ?" (Rev. xi. 15.) Is not every "*concession*" of the Church a leading of the State into error; for which it and all its lost members will stand up in the judgment against us? What advantage has the State gained from these "concessions" of the Church? Cast an eye over the moral and religious condition of England—the half-crazed, half-frantic condition of a large proportion of its population, their godlessness, turbulence, and discontent; mark the working of this in all stages of society, and its bitter fruits in the Council Chamber and in the Senate;—and then say, whether, with reference to these "concessions," our Church might not *almost* appropriate to herself words of judgment, which we trust were not spoken of *her*, "With whom the kings of the earth have committed fornication, and the inhabitants of the earth have been made drunk with the wine of her fornication." Rev. xvii. 2. Then, again, on the other hand, what has the *Church* gained by these "concessions," but disorder, confusion, and every evil work?—unless, indeed, it be considered a fair reciprocity, that instead of leaving us to gather, not by *voluntary contribution*, but *in payment of God's claim*, a full tenth of *all* things "for the service of the Tabernacle," (which, let it be remembered, would not only provide Churches and Clergymen for every corner of the land, but would enable us to send the Gospel's sound to the uttermost parts of the earth, and plant the Church of Christ in its full integrity in every country in the world:—and for what, but for this, are our riches and possessions

multiplied upon us?)—unless it be considered a fair reciprocity, that instead of leaving us thus to gather in “the tithes into God’s storehouse,” the State should *compel* the payment of a *small* portion of the tithes of the produce of the earth to individual Clergymen, and alienate *a far larger* portion into the hands of Laymen! (See Malachi iii. 8-12.) The fact is, that by all these “concessions” we are doing equal evil to the State and to ourselves; for if the Church suffer and be spiritually degraded, the State *must* suffer and be degraded with it. And what, after all, is the *meaning* of this doctrine of “mutual concession for the sake of mutual advantage?” Is it that we doubt our Master’s power, or distrust His faithfulness or His love? Why should it not be enough for us that Christ is at God’s right hand, exalted “far above all principality and power, and might, and dominion . . . head over *all* things to His Church.” (Eph. i. 20-23. Zech. ii. 8.) In humble, faithful, prayerful dependence upon Him, we have only, as in the late successful contest with the Government on the matter of Education, patiently, firmly, enduringly, quietly, to walk on evenly in the path of duty, willing to resign every proffered external advantage rather than make the slightest “concession,” and we shall soon see, as we have seen, that the result will be a blessed one, both for the Church and for the nation *.

NOTE X., p. 176.

It will, I know, be said “Where is Convocation? Why not revive that?” It is sufficient answer to ask, How is it to be done?—and if done, what security is there that it will not immediately again be silenced—or, at any rate, as

* On this whole subject, LESLIE’S *Case of the Regale*, should at this time be studied by every Churchman; especially the *Preface*.

formerly, just at the very time when its labours would be most valuable and effective? Convocation is too *secular*—too much dependent upon the Crown, or rather (for there lies the great evil) upon the Ministers of the day. After all, it may be doubted whether we are not well rid of it; for it certainly appears to be more Anglican than Catholic, more modern than primitive, more democratic than theocratic. When did we ever hear in primitive times of a separate House of Presbyters rejecting and reversing the decrees of a Synod of Bishops; or of such decrees being annulled because they were disliked by the Crown? If Convocation be contrary to God's method for the government of His Church, (as I strongly suspect it is,) we are well rid of it indeed, and may praise and glorify His mercy in the long and lingering death which He has caused it to suffer, as a preparation, it may be, for far better things, and but a *slight* punishment for our Israel-like rebelliousness. I know that the general argument in favour of Convocation is plausible enough, viz., “that the Bishops, especially now, considering the manner in which they are appointed, are not *all* likely to be fit persons to come to a decision on important theological and ecclesiastical subjects; and, therefore, that the Lower House of Convocation is a salutary check upon them.” And an instance of this might be brought forward in the rejection of the declaration of the validity of Lay Baptism by the Lower House, A.D. 1712, after (according to Bishop Burnet) the Upper House of the Southern Province had come to such a decision. Now, I am quite ready to admit that in *secular* affairs there would be great good sense in all this; and I further grant, that in the individual case mentioned, God, in mercy to us, brought good out of evil:—the which I am the more confident of, because He had previously prevented the very same mischief in *His own* way. The Bishops, *individually*, may be ill-informed and in error,

and if so, doubtless it is most lamentable ; but still, if the Church be in a truth-seeking, prayerful condition, and they, her rulers, assemble Synodically in a like faithful spirit, we have the best reason for believing that the overruling providence of God, or to speak more scripturally, the truth-guiding Comforter, will not permit them to impose their *individual* errors upon the Church ;—and a remarkable instance of this is seen in the deliberations and result of the Lambeth Conference, which immediately preceded the Convocation I have spoken of above. In this Conference, it would seem that the Bishops assembled Synodically ; and we are told that they were nearly all in favour of the validity of Lay Baptism ; but when they would have put forward a “declaration” to this effect, which, according to the principles I am upholding, would have made it a doctrine of the Church of England, they could not agree upon the matter, and the measure came to nought, or in other words, *was prevented*. Such things are only *half* understood by *reason* ; and are intelligible to *faith* alone. They are “the Lord’s doing, and are marvellous in our eyes.”

NOTE Y., p. 177.

Let it be remembered, that in every thing as we restore the discipline of the Church, we are benefiting *all*—the Dissenters as well as ourselves—and this is especially evident in the case under consideration ; for, as I have observed in the text, our obedience to Sir John Nicholl’s decision has contributed, not a little, to lead thousands into error. Heresy and schism, to say the least of them, are *sinful* ; and it is, therefore, our duty, plainly set forth in the Bible, to oppose them, and to warn *all* persons against them,—ay, if we are consistent Christians, we must *hate* them with a thorough hatred :—but that is no reason that

we should do otherwise than *love* the pious, though fearfully mistaken, Heretic or Schismatic,—especially, when we remember, such is our spiritual destitution, that if many had not been Dissenters, they must have been absolute Heathens. For my own part, then, I protest that whatever I have written in these pages, has been, in *intention*, and I believe *in fact*, written as much in the cause of our *opponents* as of the Church of God, in which is our glory and our hope.

NOTE Z., p. 177.

“The Christian Observer,” of July 1840, has enabled me to lay before my readers, the opinions of several learned Counsel upon this subject; both Ecclesiastical Lawyers, and Members of the Common Law Bar. They were given, it appears, on two cases which have lately occurred, in one of which, the person had been baptized by a “Unitarian;” in the other by a “Wesleyan.” They were procured by the parties who considered themselves aggrieved—and are all, it will be seen, contrary to the principles I have advocated. Undoubtedly the Attorney-General, Dr. Addams, and Dr. Nicholl, at the front of the array, make a very formidable appearance, and are calculated to raise up in the mind very fearful forebodings of pains and penalties—though, of course, on the *principle* of the matter in question, their opinions, to say the most, are worth no more than that of any other respectable and moderately well-informed individual. However, it will be seen, on careful inspection, that *all* these opinions are grounded on Sir John Nicholl’s Judgment,—some upon the mere Judgment itself as a precedent, and others, upon an agreement with its principles and reasoning; and hence, as we have seen how valueless that Judgment is, how little it deserves the epithet of “learned,” which is so often applied to it, though, in one

sense, it may merit that of "elaborate"—hence, and I say it with all respect for these eminent individuals, I cannot regard these "opinions" as being much more valuable than so much waste paper, except inasmuch as they indicate the fact (and it is an important one) that the most eminent lawyers of the day, both Civil and Ecclesiastical, can advance nothing more in favour of the Burial of persons baptized by Dissenters than Sir John Nicholl's arguments upon the subject. The fact appears to be with those whose opinions are given below, as it evidently was with Sir John Nicholl, that not fully understanding what true Catholic principles are, and forgetting that England was till lately, at *least* in theory, an essentially Christian Catholic Nation, they err in the interpretation of some of her older laws and customs, and wring out of them conclusions which deeper investigations show to be false; and this mistake they fall into by losing sight of the spirit which actuated our forefathers in the establishment of those laws and customs, and substituting for it that God-neglecting liberalism of the present day which we fondly call "high-minded liberality."

"Dr. Addams' opinion was as follows:—I have no doubt that Mr. W.'s conduct was illegal—taking the law (as I must, for the present, take it) to be as settled in the case of *Kemp v. Wickes*. I entertain no doubt whatever that the sentence of the Dean of Arches would be in perfect accordance with that of his predecessor, in the case of *Kemp v. Wickes*. So far, then, I entertain no doubt that Mr. W.'s conduct in the premises would be held illegal; and, consequently, that he has incurred the penalty of the law. It would still, however, be open to him to appeal to the Judicial Committee of the Privy Council—the Court of final appeal in all ecclesiastical causes—though, in my humble judgment, he would not be likely to succeed in that appeal."

“Sir John Campbell, the Attorney-General, said:—I am of opinion that Mr. W. was not justified in refusing to read the burial service on the occasion in question. The rite of Baptism having been performed in the words required, he had no authority to question its efficacy on the ground of the religious opinion of the minister by whom it was performed. But I do not think that a criminal information would be granted against him for his refusal, as his offence was not of temporal cognizance, and he appears to have acted by the advice of the bishop. The only proceeding that can be taken with effect is a suit in the Ecclesiastical Court, as in the case of *Kemp v. Wickes*.”

“The following are extracts from opinions of counsel, on the case of the Rev. Mr. E.:—

“Your opinion is requested,—First,—Whether the clergyman of a parish church, is, or is not, bound to perform the burial service according to the form prescribed in the book of Common Prayer, over the corpse of a parishioner dying in the parish, but who shall have been baptized only by a Wesleyan minister not in holy orders.”

Answer.—“I conceive that he is bound. I rely on the decision of *Kemp v. Wickes*, which was acquiesced in by the parties at the time, has never since been questioned in a court of law, and which therefore must, till the doctrine there maintained is overthrown by a contrary decision, be assumed to be law. And I go further, and say, that in my opinion it is law, and would as such be upheld if the question were again raised.”—Dr. NICHOLL.

“I am of opinion that a clergyman of a parish church is bound, by statute, to perform the funeral service upon the burial of a child under the circumstances stated. The directions as to the office of burial contained in the Rubric must be taken, I think, as general and compulsory, subject to the particular expressed exceptions; and the elaborate

judgment pronounced by Sir J. Nicholl, in the case of *Kemp v. Wickes*, 3 Phillimore (Eccl. Rep.), 264, is a high authority in point of reason, as well as law, to show that, in the present case, the child did not die unbaptized within the exception of the Rubric. The Rubric itself being confirmed by the statute 13 and 14 C. 2, c. 4, has, I conceive, the same force as if the offices which it prescribes had been particularly recited in the statute itself.”—Mr. STARKIE.

“I am of opinion, that the officiating clergyman of a parish is bound, at common law, to bury every person who dies in his parish, if such person be not unbaptized, excommunicate, or *felo-de-se*; and that baptism by any person in the name of the Holy Trinity is valid, and entitles the deceased to Christian burial, according to the form prescribed by the Book of Common Prayer. In *Kemp v. Wickes*, Sir J. Nicholl said,—‘Our Church knows no such indecency as putting the body into consecrated ground without the service being at the same time performed.’”—Mr. MATTHEWS.

Secondly.—“If he is bound to perform such burial service over such corpse, is it necessary to produce any, and what evidence, and at what time, to the clergyman, of the fact of such baptism having been administered?”

Answer.—“I conceive it would be proper, if the clergyman hesitates, or refuses to bury on application to him, to produce a copy of the Baptismal Register annexed to a declaration (made before a Magistrate in pursuance of the statute relating to solemn declarations) by some person present at the Baptism, that the child was baptized at a certain time and place, and by a certain person, with water, and in the name of the Father, Son, and Holy Ghost, and that the copy of the baptismal register thereunto annexed, was a true copy of the entry in such register. It would be

advisable to be prepared with this evidence when notice is given to the clergyman of the intention to bring such parishioner to be buried. . . . With regard to the proof of Baptism given to Mr. E., I conceive it was sufficient; inasmuch as (whether strictly legal proof of Baptism was or was not given then,) I think Mr. E.'s refusal cannot be justified, unless it should ultimately turn out that the child was in fact unbaptized, or at least that proof cannot be made that the child was baptized."—Dr. NICHOLL.

"With respect to the question, whether any evidence is necessary to be produced to the clergyman of the fact of Baptism; as the Rubric requires the office of burial to be performed, except in the cases specified of a person dying unbaptized, excommunicate, or *felo-de-se*, I am strongly inclined to think, that in case of an adult, at least, the objection ought to come from the Clergyman, inasmuch as it is not to be presumed that the deceased was within any of the predicaments which are to exclude performance of the burial service. In the case of an infant, however, or any other where an objection was likely to be made, it would be, at all events, sufficient, according to the observations of Sir John Nicholl, in the case of *Kemp v. Wickes*, 3 Phillimore (Eccl. Rep.,) 303, that reasonable evidence should be given of the fact of Baptism, the nature of which must depend on the circumstances of the case. It would be desirable, for this purpose, that the applicant should deliver, if he can, a certificate of the child's Baptism by the Minister who baptized it; or if that cannot be had, or cannot conveniently be had, a certified copy from the register, purporting to be signed by the party having the legal custody of such register. In either case, I should recommend a notice that the applicant was willing to produce such other reasonable proof as the Clergyman might lawfully require; and if no other were required, it would, I

think, be considered that the Clergyman, did not object to the evidence offered."—MR. STARKIE.

"Reasonable evidence of the Baptism, such as a man acting (not captiously, but) in the ordinary affairs of life would receive, is sufficient. A statement by a parent or other person present at the Baptism would be sufficient, or if from any person connected with the deceased, would, I think, be sufficient to put him upon further inquiry if he doubted. In the present case the clergyman admitted the Baptism, assigning as his reason for refusing to bury, that it was not valid."—MR. MATTHEWS.

Thirdly.—"If he is so bound but refuses compliance, is there any and what summary process either in the Ecclesiastical Courts, and which of them, or at common law, by which the Clergyman may be compelled to perform such Burial Service over the corpse, so long as it remains uninterred; or if the corpse has been necessarily interred subsequent to such refusal, either in the parish burial-ground or elsewhere, without having the form prescribed by the Book of Common Prayer read over it, what steps can be taken by way of punishment and prevention in future against such clergyman, either in the Ecclesiastical Courts, and which of them, or at common law, and who is or are the proper party or parties to institute proceedings?"

Answer.—"I incline to think that possibly a mandamus from the Court of Queen's Bench (see *R. v. Coleridge*, 2 B. and A. 806) might be obtained to compel the burial, and a Minister from the Ecclesiastical Courts to compel the performance of the service, in the case of an uninterred corpse; but the best course, as it seems to me, would be, to institute a proceeding, (by letters of request in the Court of Arches,) similar to that to which resort was had in the case of *Kemp v. Wickes*. The father, in the case of an infant, the personal representative, in case of an adult, would seem to

be the natural and proper promoter of such a suit. If a sentence in conformity with that given in *Kemp v. Wickes* were given, in such a suit, *à fortiori*, if it were affirmed on appeal, the law would be so established, that no Clergyman would, it is to be hoped, resist for the future; and very possibly the Temporal Courts would, in aid of the Ecclesiastical Jurisdiction, grant a mandamus to enforce a right thus clearly established."—Dr. NICHOLL.

"The opinions of the other Learned Counsel, under this head, discuss the different modes of proceeding in the Common Law Courts. We have not space to insert them at length, but the substance is as follows:—Mr. Starkie thinks, that if any proceeding at Common Law is commenced, it should be by indictment, but adds, "this would be little more than an experiment," and that "the most direct and obvious course would be to proceed in the Ecclesiastical Court, as in the case of *Kemp v. Wickes*." Mr. Matthews says, "I am not clear, that an indictment would not lie, but I think the safest course would be to proceed in the Ecclesiastical Court."

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